

REFORM

of public procurements in
Ukraine and performance results of
ProZorro e-procurement system in
January-June 2017

Compiled by:

- Viktor Nestulia,
- Yevhen Bilyk

The team:

- Serhii Pavliuk,
- Marta Hohol,
- Oleksandr Argat,
- Ivan Lakhtionov,
- Anastasia Mazurok

Literary editor:

- Mariana Doboni

Designer:

- Kateryna Kysla

Reviewed by:

- Mykola Smyrnov,
legal advisor, EasyTender project co-founder
- Dmytro Khutkyy,
Head of e-Dem Lab, Center for Innovations Development, National University of Kyiv-Mohyla Academy, Manager and Expert, E-Democracy Group, Reanimation Package of Reform
- Oleksandr Shatkovskiy,
expert in public procurements

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Published on behalf of:
Transparency International Ukraine
vul. Sichovykh Striltsiv 37-41, 5 th Floor
Kyiv, 04053 Ukraine
Tel: +38 044 360 52 42
Website: ti-ukraine.org

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Names and abbreviations

AMCU	Antimonopoly Committee of Ukraine	MI	Municipal institution
CMU	Cabinet of Ministers of Ukraine	MU	Military unit
CPA	Central purchasing authority	OECD	Organization for Economic Cooperation and Development
DMU	Defense Ministry of Ukraine	PE	Private enterprise
EU	European Union	PJSC	Public joint-stock company
EU Project	Project on Harmonization of Public Procurement System in Ukraine with EU Standards	PwC	PriceWaterhouseCoopers
GDP	Gross domestic product	SASU	State Audit Service of Ukraine
IDFI	Institute for Development of Freedom of Information	SE	State enterprise
KCSA	Kyiv City State Administration	SI	State institution
KSE	Kyiv School of Economics	SP	Sole proprietorship
Law	Law of Ukraine On Public Procurements	TI	Transparency International
LLC	Limited liability company	USR	Unified State Register of Legal Entities, Sole Proprietorships and Civic Formations
ME	Municipal enterprise	UPD	Unified Procurement Dictionary
MEDT	Ministry of Economic Development and Trade of Ukraine	VRU V	Verkhovna Rada of Ukraine
		WB	The World Bank

Main definitions

Analytics module: an online instrument for aggregation, sorting and other processing of machine-readable data regarding public procurements.

Automatic risk indicators: criteria with preset parameters, used for automatic selection of sub-threshold procurements containing signs of a low-quality tender announcement, low competitive activity or 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).

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 information regarding public procurements, available in formats suitable for analysis by users (.pdf, .docx, etc.).



Introduction

Publication of the first public procurement monitoring report by TI Ukraine (2017c) in late 2016 caused a lively discussion among procurement experts. The main subjects of this discussion were an excessive use of direct contracts by contracting authorities and the negative competition trend in ProZorro. The high percentage of disqualifications at competitive tenders was also noticeable. It is important to stress that these matters cannot be regarded as negative aspects of the public procurement reform in Ukraine, because monitoring of public procurements became possible thanks to publication of open data regarding online procurements and implementation of the relevant legislative framework. On the other hand, identification of these matters allowed to outline the focus of analysis provided in this report on procurements in the first half of 2017, which offers general explanations of these patterns.

The approach of the Organization for Economic Cooperation and Development and the European Union (2013), whereby monitoring of public procurements includes audit of compliance and performance evaluation, continues to serve as methodological basis for our analysis. The methodology of monitoring public procurements in Ukraine was developed on the basis of this approach. The application of this methodology in our previous report helped achieve analysis results highly praised by procurement experts. The aforementioned methodology is used in this report as well. Among certain improvements, integration of quality data for the purpose of explaining procurement statistics is worth noting. We also added an analysis of changes in civic monitoring of procurements.

While retaining the methodological basis and structure of the first report, this work accommodates expert recommendations on how to improve analysis. Firstly, the situation with disqualifications of tenderers and performance of controlling authorities is described using not only statistics but also explanations from contracting authorities. Such approach allows to ascertain possible reasons for problems with transparency of procurements. Secondly, more attention is devoted to the relation between specific violations and general statistics of contracting authorities' and suppliers' performance from the standpoint of performance evaluation. Systematic bad practices are in the spotlight. In addition, we analyzed not only development of legislation and technologies but also efforts of the civil society in the procurement sector during half a year. Therefore, our analysis covers all main events that took place on part of both the state and the civil society.

Although the target audience of this report is procurement experts in Ukraine, it may be of interest to a much broader reader audience. In particular, representatives of controlling authorities and the civil society may use the results of large data analysis to identify or disprove existence of violations in particular procurements. The number of instances requiring review is such that their analysis in one report does not seem possible. Instead, this work contains telling examples of suspicious procurements scrutinized by TI Ukraine legal advisors. This study may also be interesting for international procurement experts. It outlines the main trends in and development indicators of the world's first hybrid procurement system being implemented in Ukraine today. The authors of this work hope that their analysis results would be of use when comparing Ukraine with other countries of the world.

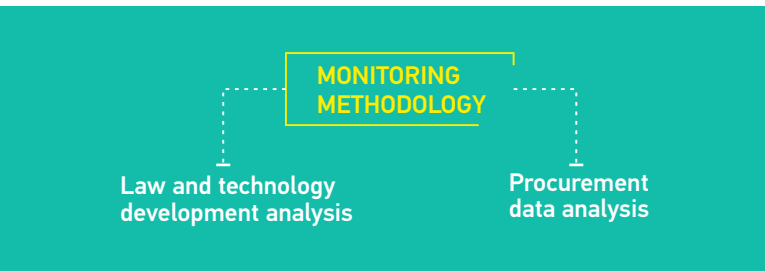
Public procurement monitoring methodology

1. Methodology of monitoring procurements in ProZorro and amendments to this methodology

This report uses the public procurement monitoring methodology developed by TI Ukraine (2017c, p. 9). The methodology is based on the best international practices of civil monitoring in the procurement sector, in particular, on the approaches developed in Armenia, Hungary and Paraguay. The approach we selected also takes into account specifics of every type of public procurement procedures existing in Ukraine. We analyzed indicators important for certain procurement procedures, e.g. avoidance of open tenders by contracting authorities in the case of contract reporting. To analyze every indicator, we used variables that could 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 and calculated by dividing the expected value of all lots of a contracting authority by the number of these lots. This methodology allows to compare ProZorro's performance in the first half of 2017 with performance in the second half of 2016.

Among several innovations, expansion of the monitoring component "Law and technology development analysis" (see: Figure 1) is worth noting. Now, it includes analysis of the state of civic monitoring, allowing to cover innovations from the civil society helping improve control over public procurements. The problematic matters not addressed during the analysis period are now grouped

Figure 1.
Elements of the public procurement monitoring methodology (TI Ukraine, 2017c, p. 10)



into a separate section. An emphasis is made on the key aspects of development of ProZorro's monitoring that require improvement.

The "Procurement data analysis" component is expanded with the results of online surveys of contracting authorities about the reasons for disqualification of tenderers and their attitude toward the work of controlling authorities. This method is chosen, because it allows to gather opinions of various contracting authorities from all over Ukraine in a relatively short period of time. The target audience is comprised of contracting authorities whose contracts are available at ProZorro SE. The questionnaire form (see: Annex 1) was sent to 16,064 e-mail addresses, from which 297 responses have been received.¹ After the data was sorted,² 270 questionnaires were selected for analysis. The sampling error is 6%.³

To analyze survey data, we used the methods of statistical analysis and inductive content analysis. The former method includes comparison of response distribution by particular questions and cross tabulation. It helps outline trends in the opinions of contracting authorities, for example, their average evaluation of the level of procurement monitoring by various controlling authorities. The latter method was used to analyze answers from 80 respondents to the open question: "How,

¹ As we can see, the percentage of responses is 1.3%, which is normal for the surveys of this type (Jansen, Corley, & Jansen, 2007, p. 3).

² From all responses, 27 were sorted out for the following reasons: three instances of identical responses (inclusively with open questions), two instances of respondents who did not make a single procurement during the year, and 23 instances of respondents not falling within any type of public bodies in the sample (e.g. private enterprise).

³ It means that with the 95% probability for the target audience (all contracting authorities whose contracts are available at ProZorro SE, 16,064), distribution of responses to questions is within the range below or above 6% from those received from the sample audience (the total of 270 contracting authorities who completed our questionnaire form and underwent sorting).

in your opinion, the percentage of disqualifications at competitive tenders can be reduced?" According to this method, code word combinations are highlighted in every response and grouped into categories (Meyring, 2000). For example, the answers "Creating a database of tenderers acting in bad faith" and "Organizing training for tenderers" were included to the category "Improving good faith in tenderers". The inclusion of results of this analysis into the present report allows to obtain certain explanation of problems in various types of procurement procedures and in performance of controlling authorities. In particular, we analyzed qualitative data concerning possible reasons for a high number of tenderer disqualifications in ProZorro.

development agenda of the e-procurement system's monitoring have been separately highlighted. In addition, we analyzed the results of our online survey, where we asked contracting authorities about the reasons for disqualification of tenderers and their attitude toward the work of controlling authorities. Monitoring of competitive dialogue at the level of the procedure's key indicators was also included to this report.

2. Analysis periods and sources of data

Analysis of law and technology development and civic monitoring covers the period of January-June 2017. Data

Table 1. Competitive dialogue: indicators and variables for analysis

INDICATOR	VARIABLE
1. Number of procurements	1. Number of completed lots
2. Expected value	2. Expected value of completed lots for the second phase of competitive dialogue
3. Leading contracting authority in terms of expected value	3. Expected value of completed lots per contracting authority
4. Percentage of cost saving	4. Percentage of cost saving from the expected value of completed lots

Another innovation is the inclusion of descriptive statistics of the competitive dialogue procedure into monitoring (see: Table 1). The possibilities for its analysis are quite limited, because this procedure is quite complex and permits the contracting authority not to disclose a large amount of data. For example, offers from unsuccessful tenderers are not required to be published. Also, competitive dialogue statistics were not available in ProZorro analytics module at the time of writing this report. Nevertheless, we introduced the analysis of this procedure's key indicators, such as the number of procurements and percentage of cost saving.

from open sources, e.g. laws of Ukraine and public online resources, was used.

Quantitative procurement data was analyzed for the same period of the first half (January-June) of 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 our online survey of contracting authorities whose contracts are available at ProZorro SE. To explain Professional Procurements SI's indicators, we obtained comments from its representatives.

Overall, the public procurement monitoring methodology developed by TI Ukraine serves as the basis for our analysis. It allows to compare transparency of ProZorro's functioning with the previous period of monitoring. Also, this methodology was developed. In particular, we analyzed not only the changes in legislative framework and technologies but also in the civic monitoring of procurement sector. The matters that comprise the

Legal analysis of violations covers the period of the first half of 2017. Sources of information included publications and commentaries of TI Ukraine legal advisors. This report also uses procurement testimonials posted on DOZORRO monitoring portal (TI Ukraine, 2017b).



Gradual development of public procurement reform in the first half of 2017

Comparing to the analysis period covered in our previous monitoring report (TI Ukraine, 2017c), there have been much less changes in Ukrainian public procurements during the first half of 2017. The majority of innovations were improvements of the new procurement system, such as completion of transition to the European Union's procurement dictionary. Some of these innovations are conformant with TI Ukraine's recommendations, in particular, concerning integration of the e-procurement system with the Unified State Register of Legal Entities, Sole Proprietorships and Civic Formations. At the same time, the aforementioned changes do not address all problematic aspects. Let's take a look at the main events that took place in the procurement sector, conditionally dividing them into legislative, administrative and technical, and those related to civic monitoring of ProZorro procurements.

1. Legislative developments

In May 2017, the draft law No 2126a On the Main Principles of Ukraine's Cybersecurity (VRU, 2017d) was submitted for the second reading by the Verkhovna Rada. This draft law does not concern public procurements directly, but still contains important innovations required to enhance Ukraine's cybersecurity. In particular, it uses international definitions of the main terms in this sphere, specifies the objects of protection, and envisages creation of mechanisms of fast response to cyberthreats.

However, this document also contains proposals breaching the existing legislative framework which regulates the functioning of a reformed public procurement sector. Thus, authorized e-platforms defined in the Law of Ukraine On Public Procurements (VRU, 2017c) are receiving an alternative definition in the draft law No 2126a. They fall under definition of the critical infrastructure, thus creating a legal collision featuring different definitions of the e-platform in two laws.

In addition, analysis of this draft law by TI Ukraine legal advisors (2017a) shows that the changes proposed therein, such as taking the e-platform authorization function away from MEDT and authorizing e-platforms themselves to set own requirements concerning security of fulfilment of the tenderer's obligations, contain corruption risks. In the former case, we have the situation when authorization of e-platforms is handled by public bodies for whom public procurements is not the area of their specialization. In the latter case, authorized e-platforms compliant with the requirements of the draft law will become free to set prices for tenderers at own discretion, which may eventually lead to declining competition among tenderers at procurement auctions.

It is also worth noting that this proposal contradicts the world's best procurement practices. Thus, only the contracting authority may set requirements concerning security of fulfilment of the tenderer's obligations in accordance with EU rules (The EU, 2014, p. 222). OECD recommends that the procurement sector is to be regulated by one law in order to improve effectiveness and control of procurement procedures (OECD, 2014, p. 25).

Based on the draft law's analysis and international experience, TI Ukraine opposed the provisions of the draft law On the Main Principles of Ukraine's Cybersecurity concerning ProZorro. At the time of writing this report, the above draft law was returned to the stage of preparation for voting in the parliament. The situation around it remains uncertain.

During the reporting period, another nine draft laws proposing new exceptions from the scope of the Law's application have been registered at the Verkhovna Rada of Ukraine (see: Table 2). Such situation repeats the dangerous trend which was observed in 2011-2013 and has resulted in the 41st exception (as of the beginning of 2014) from the subsequently-repealed Law of Ukraine On Public Procurements (VRU, 2017a). It is worth noting that

CMU, with the support from the parliamentary coalition and international partners (in particular, the EU) is currently managing to oppose the initiatives proposing unfounded exceptions, and neither of the aforementioned draft laws has been passed. Therefore, the Strategy of Reforming Public Procurement System has indeed been implemented (CMU, 2016b).

Table 2. Draft laws which proposed exceptions from the scope of application of the Law of Ukraine On Public Procurements and were rejected during the first half of 2017

DRAFT LAW NUMBER	REGISTRATION DATE	DRAFT LAW TITLE
5645	17.01.2017	Draft law amending the final and transitional provisions of Section IX of the Law of Ukraine On Public Procurements concerning procurement of goods, works and services required for preparation and organization of the 2017 Men's Ice Hockey World Championship in Ukraine
6245	27.03.2017	Draft law amending Article 1 of the Law of Ukraine On Public Procurements (regarding the list of specialized procurement organizations)
6347	12.04.2017	Draft law amending Article 2 of the Law of Ukraine On Public Procurements
6347-1	25.04.2017	Draft law amending Article 2 of the Law of Ukraine On Public Procurements regarding procurement procedures in healthcare sector
6367	13.04.2017	Draft law amending certain legislative acts of Ukraine (regarding procurements of medicinal products and medical devices)
6450	16.05.2017	Draft law amending Article 2 of the Law of Ukraine On Public Procurements regarding abolition of tenders for procurement of goods and services for provision of free hot meals to children victimized by the Chornobyl Nuclear Accident
6494	24.05.2017	Draft law amending Article 2 of the Law of Ukraine On Public Procurements (regarding public procurements involving specialized procurement organizations)
6625	22.06.2017	Draft law amending Article 2 of the Law of Ukraine On Public Procurements (regarding modernization of certain provisions concerning sanitary-epidemiological wellbeing of the public)
6633	22.06.2017	Draft law amending the Law of Ukraine On Public Procurements regarding elimination of obstacles to competition in the financial services market

Now, let's take a look at the legislative improvements supported by TI Ukraine. The draft law No 4738-d amending the Law of Ukraine On Public Procurements and certain other laws of Ukraine concerning monitoring of procurements (VRU, 2017g) was prepared for hearing by the parliament. This draft law is aimed at introducing extremely important aspects of procurement monitoring procedures to the main Law. Firstly, the new Article 7 sets out the monitoring procedure for SASU as the main controlling agency. The absence of this procedure in the currently-effective version of the Law means that monitoring is presently unregulated and cannot be done efficiently. Another important change is the revised Article 8, which sets the deadlines for and requirements to annual reports by MEDT as the Authorized Agency. Now, information regarding monitoring results must be included to MEDT reports. This way, the law creates a mechanism of checking SASU's performance.

Definition of automatic risk indicators and the procedure of their use by SASU have also been added. From the standpoint of international experience in development of transparency of procurement systems, this is an important component of an efficient government monitoring. An example of a country facing similar problems is Portugal, where procurements have been made electronic back in 2009 (Rosa, 2012). The public portal BASE became the sole window for publication of procurements (IMPIC, 2017). However, among the biggest flaws in the Portuguese system today are, as experts note, the absence of direct access to procurement data by controlling authorities and, in particular, the failure to use violation indicators by these authorities to process data arrays they collect (PwC, 2016, p. 94).

Overall, this draft law helps overcome the problem covered in TI Ukraine's previous monitoring report – the absence of methodology for monitoring by controlling authorities (TI Ukraine, 2017c, p. 35). We propose to amend the Law without changing its structure and logic. However, the question of political preparedness to support these amendments remains open, for in the past, this draft law has been put four times on the agenda but never voted on.

2. Administrative and technical innovations

A significant event occurring in early 2017 was the establishment of Professional Procurements SE under the auspices of MEDT pursuant to the resolution of the Cabinet of Ministers of Ukraine of 23.11.2016 On Implementation of the Pilot Project of Organizing Operations of Centralized Purchasing Authority (2016a). The main goals of establishing CPA were to relieve bureaucratic pressure on contracting authorities, increase effectiveness of procurements, reduce procurement timeframes and improve their quality (MEDT, 2016, p. 9). These goals are being achieved by aggregating similar needs of various contracting authorities, professionalizing procurement procedures and using framework agreements (see: Figure 2). Under the pilot project, procurements via Professional Procurements SE are voluntary for contracting authorities.

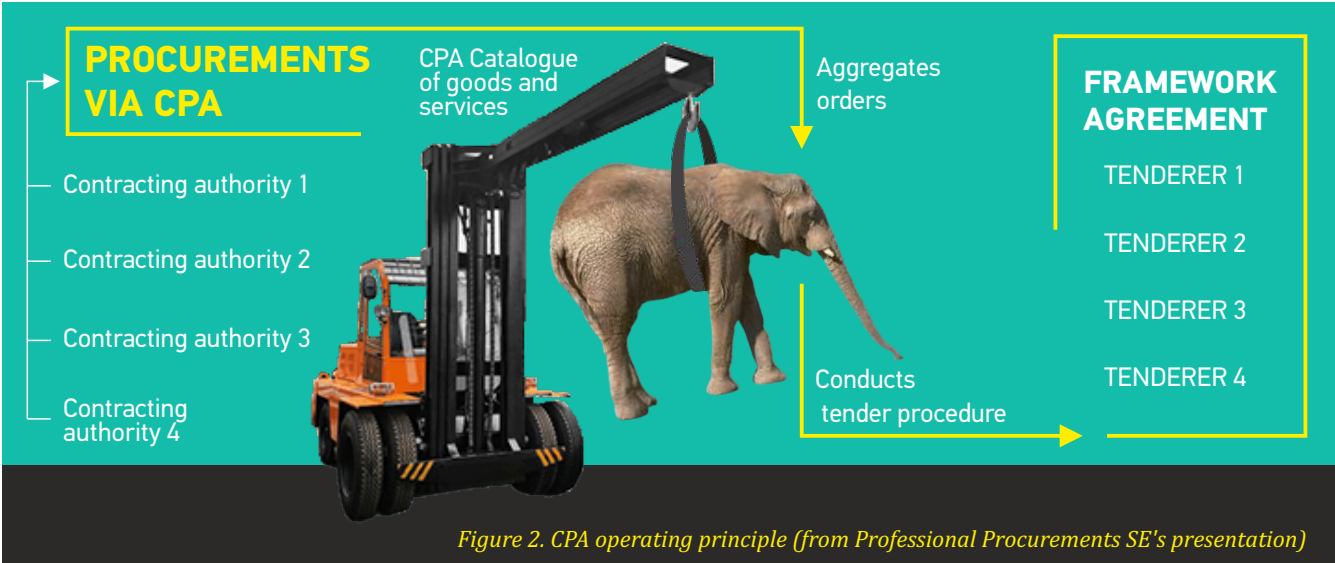


Figure 2. CPA operating principle (from Professional Procurements SE's presentation)

The establishment of CPA can be considered a step toward harmonization of Ukrainian procurement legislation with EU standards (EU Project, 2016). Professional Procurements SE allows contracting authorities to work more efficiently, creating correct standard requirements to procurements. At the same time, its work does not result in discrimination of small and medium-sized businesses, which may find it difficult to compete for large deliveries of goods and services, because procurements via CPA are voluntary. Such approach is conformant with procurement policies of EU member states.

Another aspect is the fact that consolidation of demand from contracting authorities helps reduce administrative expenses of tenderers. Thus, OECD recommended consolidation of demand and framework agreements for Greece, where administrative expenses of businesses related to participation in tenders in 2006 amounted to almost 7% of GDP (OECD, 2014, p. 10). The implementation of each of these recommendations was estimated to bring approximately EUR 38 million in savings to tenderers, based on the assumption that their implementation would result in a 10% decrease of the number of tenders (OECD, 2014, p. 20). From the tenderer's viewpoint, it's cheaper to participate in one tender and supply similar goods to various contracting authorities via CPA than participate in many small tenders.

However, it is important to take into account the dependence of CPA on the use of framework agreements. This procurement mechanism has transparency-related flaws from the standpoint of Ukrainian law. Article 13 of the Law allows framework agreements to be made for up to 4 years with at least 3 tenderers (VRU, 2017c). These agreements are closed, which means that after they are signed, no other tenderers may join the ranks of claimants to a procurement contract. A procurement contract can be signed only with a company-party to a framework agreement with a too generalized clause that this agreement must state all essential terms and conditions of future procurement contracts. In the opinion of TI Ukraine, Professional Procurements SE's development requires improvement of legislation governing framework agreements. Among the necessary steps in this direction are the opening of these agreements to new claimants during their duration and stipulation of clearer criteria for the conclusion of procurement contracts with the parties to framework agreements. In this context, MEDT and CMU must approve the bylaws explicitly required by the Law: the MEDT Order on the Procedure of

Concluding and Performing Framework Agreements pursuant to Article 13 (2) and the CMU Resolution on the Procedure of Establishing and Operating Centralized Purchasing Authorities pursuant to Article 1 (36), which has not been done at the time of writing this report.

Transition to the Unified Procurement Dictionary as the basis for definition of the subject of procurement of goods and services was completed in January 2017 pursuant to the MEDT Order 454 of 17.01.2017 approving the Procedure of Defining the Subject of Procurement (MEDT, 2016a). In particular, paragraph 1, Section II of the approved Procedure requires contracting authorities to go by the 4th digit in UPD and state the product's or service's name in parentheses.⁴ For the purposes of additional definition, contracting authorities still may use the State Classifier of Products and Services DK 016:2010, but it becomes an ancillary instrument only. It is worth noting that this innovation is positive from the standpoint of both harmonization with the EU legislation (The EU, 2014, p. 88) and monitoring of large arrays of procurement data. The use of a single classifier and specification up to the fourth digit simplify the search and comparison of various goods and services.

The third important change is integration of ProZorro with USR. It came into effect on 16 June 2017 with the signature of the agreement between ProZorro SE and National Information Systems SE, which is responsible for keeping the register (ProZorro SE, 2017a). Such move made simpler the check whether a company registering at ProZorro as a tenderer via an authorized e-platform is real.

This integration was recommended in TI Ukraine's previous report (TI Ukraine, 2017c, p. 23), because it allows to identify problematic suppliers at the time of registration at ProZorro. One of the recommendations from DIGIWHIST project, which has the purpose of increasing public trust in procurements and improving effectiveness of spending public funds in the EU, envisages integration with similar registers as one of the ways of increasing transparency of electronic procurements (Mendes & Fazekas, 2017, p. 6). Therefore, this innovation may be considered positive.

⁴ For certain goods and services, the third digit may be enough. In particular, the subject of procurement of medicinal products is determined on the basis of the third digit in UPD, stating in parentheses the medicinal product's international unpatented name (IUN). If the subject of procurement includes two or more medicinal products, each product's IUN must be stated in parentheses.

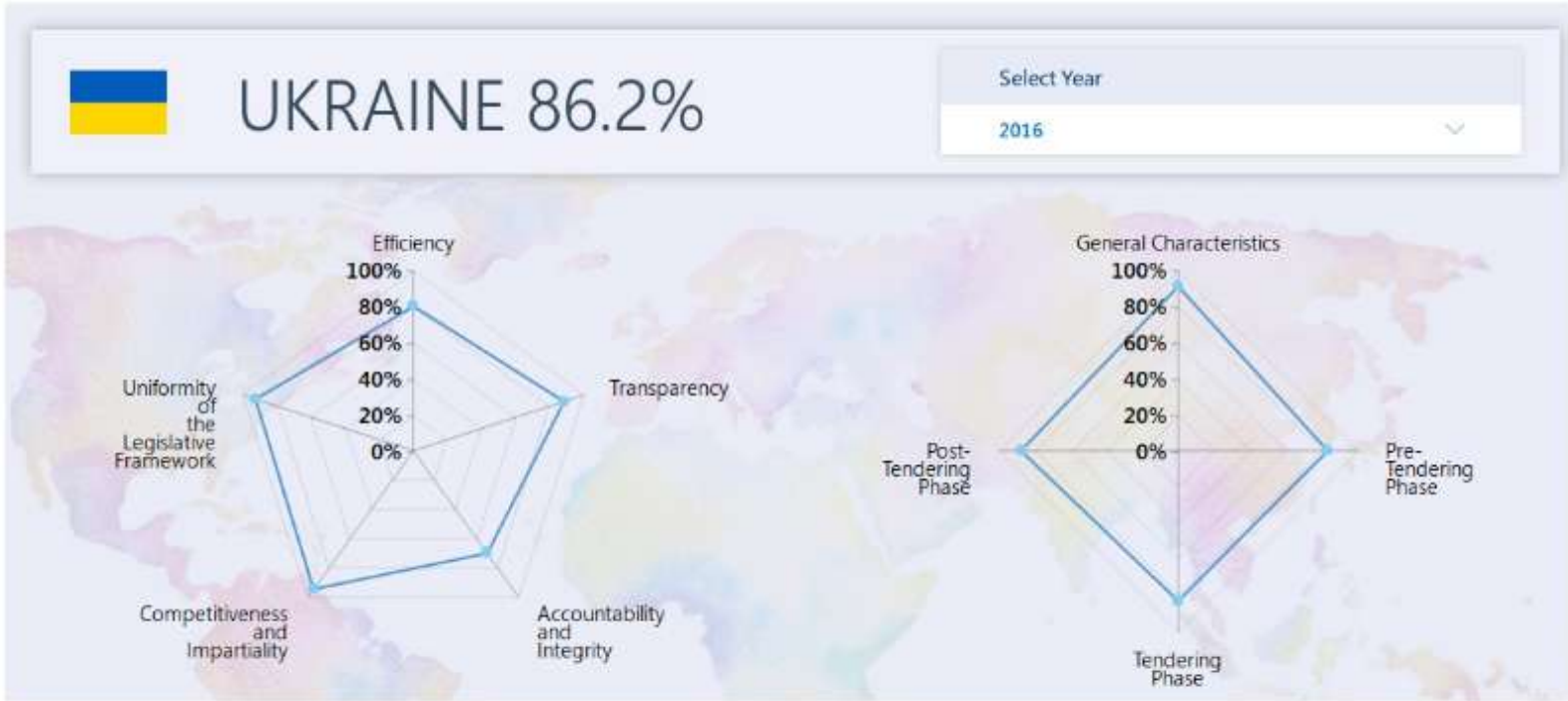
3. The state of civic monitoring

The main event of the first half of 2017 was termination of the public Commission for review of statements of possible violations in sub-threshold procurements. This decision was documented in the Order 49 of ProZorro SE of 20.06.2017, and the relevant changes have been made in the MEDT Order 35 (ProZorro SE, 2017b). It is worth noting that since the inception, the Commission was a unique body comprised of representatives of TI Ukraine, MEDT and AMCU. Such a cooperation between the

decision to proceed with the procurement. The percentage of the Commission's recommendations which bore upon the decisions of contracting authorities did not exceed 20%. These factors were behind the TI Ukraine's suggestion to MEDT and ProZorro SE to terminate the Commission.

Instead of the Commission, TI Ukraine offers the public portal DOZORRO as the means of appealing violations in

Figure 3. Ukraine's rankings in the Transparent Public Procurement rating



government and the broad public on appealing procurements is one of IDFI's key recommendations for Ukraine required to improve the country's positions in the Transparent Public Procurement rating (IDFI, 2017, p. 11) (see: Figure 3). Over time, public bodies withdrew from participation, so representatives of the public had to review complaints using own efforts. Because of that, dissolution of the Commission means recognition of its ineffectiveness, rather than the absence of need in it.

Among the main problems in the functioning of this body, the large volume of statements (reaching almost 700-800 a month in March-May 2017) and the relatively short period of reviewing them (14 days) (Nestulia, 2017) are worth mentioning. At the same time, contracting authorities often not waited for the Commission's

sub-threshold procurements (TI Ukraine, 2017b). On the portal, users may leave comments concerning procurements for review by civic organizations working via this portal. Another option is to download standard forms of letters to contracting and controlling authorities in order to personally appeal problematic issues in procurements (see: Figure 4). The Law of Ukraine On Public Inquiries requires all appeals to be reviewed. A serious flaw is the fact that the work conducted by representatives of the public at large and public bodies, such as Ukrainian Postal Service or SASU, via DOZORRO is voluntary. This form of work may be more efficient than the Commission, but the procedure of appealing sub-threshold procurements, as well as their organization, requires legislative regulation.

Figure 4. A webpage of standard statement forms on DOZORRO portal concerning violations in sub-threshold procurements

Sub-threshold procurements: control and influence!

Select the type of violation you discovered to learn about the legal aspects, view templates of letters to contracting and controlling authorities and read examples of appealing similar violations



4. Unaddressed issues

The scope of innovations may be considered quite substantial for half-a-year period of time. However, there are several key matters concerning improvement of public procurement system that remain unaddressed. First of all, new automatic risk indicators have not been developed within ProZorro's analytics modules according to recommendations in TI Ukraine's previous report (TI Ukraine, 2017c, p. 23). At the time of writing this report, there was not even an approximate timeframe for implementation of new “red flags” in analytics modules. This matter is of critical importance not only from the standpoint of civic monitoring but also for the purpose of reforming SASU's oversight under the draft law 4738-d.

In addition, greater volumes of procurement data must be disclosed in machine-readable format. DIGIWHIST project provides an exemplary list of variables and the stages at which they must be published in e-procurement systems of EU member states (Mendes & Fazekas, 2017, p. 10). ProZorro already has most of these variables, but it is worth pointing out the absence of some of the recommended ones (see: Table 3). In particular, a key

point is the inclusion of information regarding the quality of contract performance. Only the information regarding contract's modification or completion is presently available, while the degree of contracting authority's satisfaction remains unknown. In addition to the list of variables from DIGIWHIST, we'd like to mention the absence of AMCU's decisions on complaints concerning over-threshold procurements in machine-readable format.

The problem of higher level is that the law on public procurements must be updated in accordance with the best international anticorruption practices. In particular, orientation toward price as the only criterion for determination of the winner and electronic auction as the only evaluation mechanism, although justifiable in Ukrainian conditions, must be gradually replaced with more complex mechanisms of evaluating tenderers. One of the reasons for this transition is the large number of additional agreements: according to statistical data, additional agreements are made for every 6th over-threshold procurement (KSE, 2017, p. 3). Every additional

Table 3. Variables recommended by DIGIWHIST for publication in e-procurement systems, which are unavailable in ProZorro

VARIABLE	RECOMMENDED DISCLOSURE STAGE ⁵	NOTES
Contracting authority's procurement department	Tender announcement, conclusion of contract, performance of contract	Information unavailable. There is general information regarding contracting authority's organization
Exact time of submitting a tender offer	Conclusion of contract	Information is available in procurement documents, but not in machine-readable format
Tenderer company's ultimate beneficial owner	Conclusion of contract, performance of contract	Information unavailable
Type of procurement (product, service, work)	Tender announcement, conclusion of contract, performance of contract	Information unavailable in ProZorro
Subcontractor's name and identification number	Conclusion of contract, performance of contract	Information is available in procurement documents, but not in machine-readable format. The Law requires disclosure only of subcontractors whose share is more than 20% of contract amount
Subcontractor's share	Conclusion of contract, performance of contract	Information is available in procurement documents, but not in machine-readable format
Information regarding the quality of contract performance	Performance of contract	Information unavailable

agreement changes procurement terms, thus complicating monitoring. Among the key aspects worth considering for possible inclusion to the Law is evaluation of tender offers on the basis of the greatest economic

benefit for certain product groups (PwC, 2016, p. 8), prevention of abnormally low contract prices (Popescu, Onofrei & Kelley, 2016, p. 85), and gradual increase of tender security amount (The WB, 2017, p. 34).

⁵ In other words, the procurement stage at which information is disclosed.

5. Summary of changes

Summing up the changes which took place during the first half of 2017, we can state that reform of public procurements in Ukraine continues. After the stage of drastically abandoning old practices, the reform reached the stage of defending itself against discrediting attempts and gradually implementing the necessary improvements revealed by application practice. Thus, the lawmaking conflict caused by dilution of the rights of contracting authorities and authorized e-platforms in the draft law 2126a was avoided. In addition, nine draft laws which proposed exceptions from the Law have been rejected. It is fair to say that overall, the Strategy of Reforming Public Procurement System was implemented. At the same time, the important draft law 4738-d was prepared, setting out the procedure of monitoring procurements by controlling authorities using automatic risk indicators.

Professional Procurements SE was established to aggregate demand of contracting authorities and reduce administrative burden on suppliers by making framework agreements. A problem in this context is the flawed Ukrainian legislation regulating these agreements. Framework agreements must be open for potential suppliers to join at any stage, and the terms of agreements with one tenderer must be clarified. In that case, MEDT and CMU must adopt the documents required by the Law, which has not been done during the reporting period. Also, a transition was made to definition of the subject of procurement using the 4th digit of the Unified Procurement Dictionary, which allows for easier search and comparison of products and services. In addition,

ProZorro was integrated with USR, allowing contracting authorities to automatically check the tenderers, thus reducing administrative burden and increasing transparency.

A no less important event was termination of the Commission for review of statements of possible violations in sub-threshold procurements due to impossibility to process a large number of statements sent to it and meek response of contracting authorities to its recommendations. The Commission's functions went to DOZORRO, a public portal which activists of many civic organizations and certain contracting authorities use to respond to complaints. It allows for quality processing of a larger number of inquiries. However, complaints concerning sub-threshold procurements remain dependent on the contracting authority's desire to respond to them.

Among the acute unaddressed matters, non-appearance of new automatic risk indicators in ProZorro's analytics modules is worth mentioning. Next is the absence of publication of certain important procurement variables, such as, for instance, contracting authority's feedback on the quality of contract performance and AMCU decisions, in machine-readable format. And finally, the existing legislation regulating public procurements requires integration of the best international anticorruption practices into it, such as prevention of abnormally low contract prices.



The second half-year of ProZorro's operation

This section offers analysis of public procurements concluded⁶ during the first half of 2017. The analysis covers the period from 1 January to 30 June. It allows to make comparisons with the public procurements analyzed in the previous period, i.e. concluded in the second half⁷ of 2016. The procurement procedure start date is not taken into account.

The analysis covers all procurement types available in ProZorro. They include both the procedures designated by the Law (e.g. open tenders) and the types of procurement lying outside its scope (e.g. sub-threshold procurements). Competitive dialogue was added to the procurement procedures reviewed in the previous monitoring report (TI Ukraine, 2017c). This procedure has appeared in the e-procurement system in early 2017.

1. General characteristics of concluded procurements

During the first half of 2017, almost 410 thousand lots⁸ with the expected value of UAH 242.7 billion were concluded via ProZorro (see: Table 4). The number of procurements has increased by 70% and their expected value more than 2.6 times comparing to the second half of 2016. Almost 80 thousand unique enterprises and sole proprietorships participated in procurements, which is approximately 30% more than in the previous period. They submitted almost 315 thousand offers for competitive procurement tenders. As we can see, the volume of procurements and the number of tenderers have increased versus the previous period. However, the average cost saving in ProZorro did not improve: 5.5%. A possible reason for this situation is the fact that the number of sub-threshold procurements remained almost the same: 92 versus 90 thousand lots in the second half of 2016. On the contrary, the number of contract reports has doubled, going up from 123 to 240 thousand.

⁶ Concluded procurements mean procurements reaching the point of concluding 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 concluded lots were included into the sample.

⁷ It is worth noting that the analyzed period in 2016 started from 1 August, the nationwide effective date of the Law On Public Procurements. When comparing these periods, one should bear in mind the difference in their duration: 5 and 6 months, respectively. Accordingly, greater procurement volumes are expected in the first half of 2017.

⁸ For completed procurement lots, the number of lots equals to the number of concluded contracts, because every lot is being bought under a separate contract.



Table 4. Procurement statistics for all procurement types, January-June 2017

	All procurements	Sub-threshold procurements	Open tenders	Open tenders with English-language publication	Contract reporting	Negotiation procedure	Negotiation procedure for defense procurements
Number of lots	409 996	92 610	36 041	4 151	240 602	35 793	799
Expected value of lots (UAH)	242 823 225 164	15 576 342 239	37 301 636 788	84 418 596 837	35 543 132 787	63 337 372 897	6 646 143 614
Cost saving (UAH)	13 322 835 312	2 084 731 155	3 870 466 375	7 128 664 857	0	0	238 972 925
Number of unique tenderers	79 631	22 852	17 514	3 045	58 473	5 519	402
Average number of price offers	2,3	2,2	2,7	2,8	-	-	2,2
Number of price offers	315 455	204 391	97 652	11 612	0	0	1 800
Total contract amount	227 953 806 717	13 481 301 581	33 404 884 545	77 021 885 519	35 543 132 787	62 841 202 352	6 285 646 365
Questions	26 871	16 801	7 366	2 422	0	0	282
Unanswered questions	2 637	2 633	3	1	0	0	0

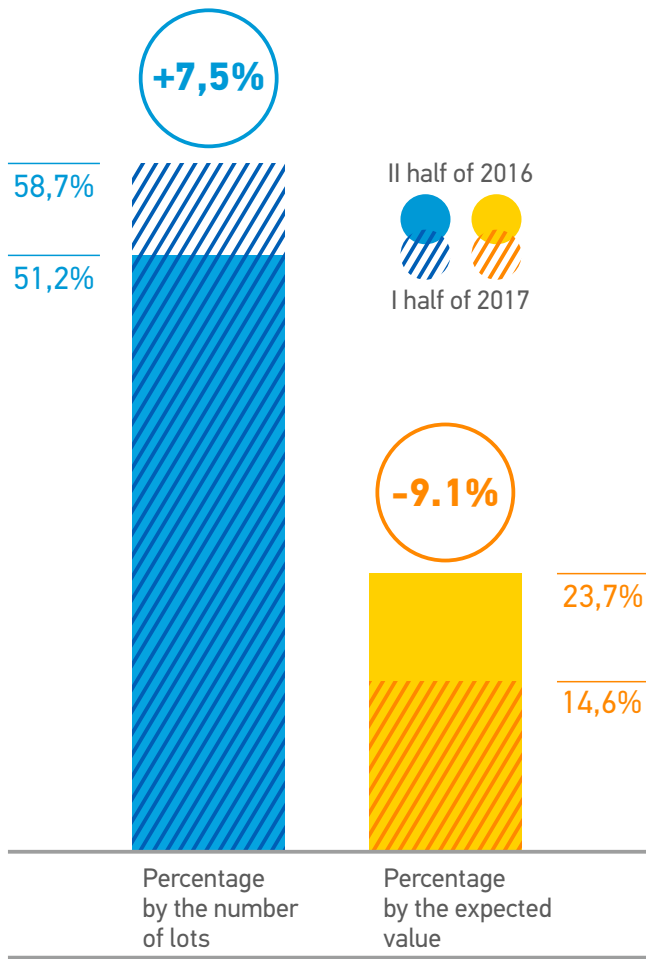
2. Non-competitive procurements

Non-competitive procurements, i.e. contract reporting and negotiation procedure, were responsible for over two-thirds (67.4%) of all contracts, which is almost 12% more than in the second half of 2016. The percentage of non-competitive procedures in terms of expected value⁹ remained the same: 40.7%. As we can see, procurements of this type represent an important subject of analysis.

2.1. Contract reporting

The percentage of contract reporting in terms of the number of lots has increased from 51.2% to 58.7% comparing to the second half of 2016. As before, the largest number of unique tenderes is present in contract reporting: in this period, their number has exceeded 58 thousand. On the other hand, the expected value of all contracts is UAH 35.5 billion, or 14.6% of the value of all procurements via ProZorro, which is 9% less than in the previous period (see: Diagram 1). Among the typical violations that may concern this procedure, TI Ukraine legal advisors place emphasis on three groups: “price overstatement”, “possible avoidance of open tender procedure” and “contract breach”. Therefore, contract reporting remains the dominant procurement procedure in terms of the number of unique tenderers and the number of contracts made in ProZorro. This type of procurement is prone to high risk of inefficient spending of public funds due to highly probable price overstatement. The 9% decline in the value of contracts made by reporting is a positive change comparing to the second half of 2016. Therefore, although the majority of suppliers continue to work directly with contracting authorities, the percentage of funds spent this way has decreased.

Diagram 1. Dynamics of the percentage of contract reporting in all procurements in terms of the number and expected value of contracts (second half of 2016 – first half of 2017)



2.1.1. Close relationships between suppliers and contracting authorities

The data concerning procurements made via direct contracts was sorted on the basis of two indicators of relationships between contracting authorities and suppliers: percentage of participation in terms of the number of contracts and value of contracts. According to TI Ukraine's methodology, we reviewed all procurements featuring more than 40 lots, in which the supplier's share in a contracting authority is equal to or higher than 70% of contracts and 50% of value. Such a relationship between the organizer and a tenderer we consider close.

Close relationship has been found in eight instances (see: Table 5). Some of these procurements may be economically expedient, for instance, direct contracts on repair of outdoor lighting in Zaporizhia or repairs in Kharkiv. They can be explained by the absence of competition. However, in most cases the contracting authority abused the contract reporting option. As an

example, Khmelnytskyi Regional Department of Water Resources buys fuel directly from Alliance Evolution LLC. It is important to note that this supplier receives only 35.6% of contracts by way of contract reporting. The subject of procurement is competitive, and therefore, price overstatement in the event of direct contracts on the supply of this commodity is highly probable.



⁹ In the case of completed non-competitive procurements, the expected value of lots equals to 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.

Table 5. Close relationship between contracting authorities and suppliers when reporting on contracts: more than 70% of contracts and 50% of value

Contracting authority	Supplier	Number of contracts	Percentage of participation	Contract value (UAH)	Percentage of participation
Regional Dental Association of Zhytomyr Raion Council	All suppliers	264	100%	233,537	100%
	O.V. Kovalchuk Sole Proprietorship	186	70%	176,706	76%
General statistics for the first half of 2017	All procurements of this contracting authority were made via direct contracts. Among all supplies of this tenderer, 95% went to this contracting authority via contract reporting. Subject of procurement: disinfectants, dental equipment				
Department of Infrastructure and Improvement of Zaporizhia City Council	All suppliers	130	100%	25,629,339	100%
	Zaporizhmisksvitlo Municipal Enterprise of Outdoor Lighting Power Networks	115	88%	22,435,957	88%
General statistics for the first half of 2017	In 86% of all procurements, the contracting authority concludes direct contracts. 91% of this tenderer's supplies to all contracting authorities are made via contract reporting. However, the tenderer also wins sub-threshold procurement tenders of this contracting authority. Subject of procurement: outdoor lighting in Zaporizhia.				
Petropavlivskyi Hospital of Stanytsia Luhanska RTMO	All suppliers	88	100%	144,826	100%
	Liudmyla Movchan Sole Proprietorship	77	88%	116,877	81%
General statistics for the first half of 2017	The contracting authority actively uses competitive procedures. On the other hand, 100% of the tenderer's supplies to this contracting authority go via contract reporting. Subject of procurement: foodstuffs.				
Engineering Networks, Specialized Municipal Enterprise	All suppliers	90	100%	8,369,164	100%
	Kharkiv Construction and Repair Enterprise, Municipal Enterprise	63	70%	6,963,717	83%
General statistics for the first half of 2017	Contract reporting amounts to 98% of this contracting authority's procurements. The tenderer receives 99% of all contracts via contract reporting as well. Subject of procurement: repair works in Kharkiv.				

Sport for All Kharkiv City Center for Public Physical Education, Municipal Enterprise	All suppliers	53	100%	8,931,703	100%
	Rat' Limited Liability Company	49	92%	6,341,315	71%
General statistics for the first half of 2017	Among all procurements of this contracting authority, 85% are made via contract reporting. 92% of the tenderer's all contracts are direct contracts with this contracting authority. Subject of procurement: repair works in Kharkiv.				
Contracting authority	Supplier	Number of contracts	Percentage of participation	Contract value (UAH)	Percentage of participation
Khmelnyskyi Regional Department of Water Resources	All suppliers	50	100%	358,110	100%
	Alliance Evolution LLC	46	92%	182,762	51%
General statistics for the first half of 2017	Direct contracts amount to 98% of all procurements of this contracting authority. On the other hand, the tenderer participates in competitive procedures: only 35.6% of its supplies are made via contract reporting. Subject of procurement: fuel.				
Department of Education, Youth and Sport of Volodymyrets Raion State Administration in the Rivne Oblast	All suppliers	46	100%	940,548	100%
	Volodymyrets Public Food Service Establishment, Cooperative Enterprise	41	89%	541,373	58%
General statistics for the first half of 2017	88% of all procurements of this contracting authority are made via contract reporting. 98% of this tenderer's supplies are made via direct contracts. Subject of procurement: foodstuffs.				
Sumy General Education School No 18 of I-III Levels, Sumy, Sumy Oblast	All suppliers	48	100%	1,854,327	100%
	KORP Small Wholesale CMP	40	83%	1,169,472	63%
General statistics for the first half of 2017	98% of this contracting authority's procurements are conducted via contract reporting. 99% of this tenderer's supplies are made via direct contracts. Subject of procurement: foodstuffs.				

After that, we selected procurements featuring more than 40 lots, in which the supplier's share exceeds 60% in terms of contract value and 50% in terms of the number of

contracts. Of the nine relationships thus discovered, five were present in the previous sampling. Four new instances have been identified (see: Table 6).

Table 6. Close relationship between contracting authorities and suppliers when reporting on contracts: more than 60% of value and 50% of contracts (instances not included to Table 5)

Contracting authority	Supplier	Number of contracts	Percentage of participation	Contract value (UAH)	Percentage of participation
Department of Economy and Development of Cherkasy City Council	All suppliers	171	100%	37,692,203	100%
	Y.V. Dobrovolskyi Sole Proprietorship	110	64%	27,651,081	73%
General statistics for the first half of 2017	The contracting authority actively uses competitive tenders. On the other hand, 98% of the tenderer's all supplies go via contract reporting. Subject of procurement: repair works.				
Invasport Lviv Regional Center for Physical Education and Sport of the Disabled, Municipal Establishment of Lviv Oblast Council	All suppliers	138	100%	5,399,624	100%
	Western Center for Rehabilitation and Sports, NKSIU Enterprise	72	52%	3,272,900	61%
General statistics for the first half of 2017	98.5% of this contracting authority's all procurements are conducted via direct contracts. 100% of this tenderer's contracts are received via contract reporting. Subject of procurement: transport, foodstuffs, accommodation.				
Department of Education of Svaliava Raion State Administration	All suppliers	89	100%	5,733,663	100%
	Mykhailo Rusyn Sole Proprietorship	54	61%	3,583,516	62%
General statistics for the first half of 2017	94% of this contracting authority's procurements are made via contract reporting. 100% of the tenderer's contracts are direct contracts with this contracting authority. Subject of procurement: foodstuffs.				
Managing Company for Housing Stock Maintenance ME	All suppliers	69	100%	5,960,012	100%
	Ukr-Remmontazh Limited Liability Company	45	65%	4,003,203	67%
General statistics for the first half of 2017	Direct contracts are made in 96% cases of this contracting authority's procurements. On the other hand, although 80% of the tenderer's contracts are received via contract reporting, 77% of the tenderer's income is derived from participation in open tenders. Subject of procurement: repair works.				

2.1.2. Avoidance of open tenders

As we can see, in two cases only one of the parties to a contract is problematic. Thus, the Department of Economy and Development of Cherkasy City Council and Ukr-Remmontazh Limited Liability Company are quite active in open tenders, whereas their counterparties abuse the direct contract option. On the other hand, Western Center for Rehabilitation and Sports, NKSIU Enterprise participates in contract reporting only, while its principal counterparty, Invasport Lviv Regional Center for Physical Education and Sport of the Disabled, Municipal Establishment of Lviv Oblast Council uses the contract reporting option in 98.5% of procurements. At the same time, the subjects of procurement are quite competitive: foodstuffs and transportation services. The situation with Mykhailo Yuliyovych Rusyn Sole Proprietorship and the Department of Education of Svaliava Raion State Administration is even worse, because this tenderer delivers all supplies (foodstuffs) solely to the above contracting authority and only via direct contracts. The consequences of such arrangements between contracting authorities and suppliers may include overstated prices for the subjects of procurement and nontransparent spending of public funds.

When the expected value of the subject of procurement is below UAH 200 thousand for goods and services and UAH 1.5 million for works, conducting open tender via ProZorro is not required by the Law. According to our monitoring methodology, contracting authorities with the average value of direct contracts close to the aforementioned thresholds require monitoring. The average value indicator is calculated by dividing the value by the number of contracts received by a particular supplier from a particular contracting authority.

In the case of goods and services, we analyzed the expected value of lots from UAH 185 thousand to UAH 200 thousand. The analysis has revealed 6,159 cases when the average price of contract between a particular contracting authority and tenderer fell within this range. This number was 57% larger than in the second half of 2016. Of them, only 137 contained five or more lots, whereas the overwhelming majority were separate procurements from unique tenderers. These 137 cases alone were responsible for almost UAH 158.7 million worth of contracts (see: Annex 2). These procurements require further analysis for probable splitting.

CASE 1. "Advantages" of switching to contract reporting for the benefit of contracting authority

DESCRIPTION OF PROBLEM: Regional Dental Association of Zhytomyr Raion Council makes procurements on the sole basis of the contract reporting procedure: none of the 264 lots with the expected value of UAH 233,537 was put up for a competitive tender. These lots have been distributed among eight suppliers delivering dental devices, office equipment and building materials to the contracting authority. The largest of these suppliers is O.V. Kovalchuk Sole Proprietorship, with which the contracting authority has 186 contracts worth the total of UAH 176,706.

For procurements by other contracting authorities, O.V. Kovalchuk Sole Proprietorship participates in competitive tenders. During half a year, the sole proprietor has submitted 8 offers for sub-threshold procurement tenders with the average competition rate of 3.4 tenderers. Five of these offers were successful, resulting in contracts worth the total of UAH 60,272. The cost savings on tenders won by O.V. Kovalchuk Sole Proprietorship amounted to almost 30%.

Considering that this tenderer supplies regular dental equipment, the probability of overstated prices for these items in direct contracts with Regional Dental Association is very high. For example, O.V. Kovalchuk Sole Proprietorship supplies 3B-1 dentist's mirrors for UAH 33 apiece at sub-threshold procurements and UAH 36 in contract reporting, U.S.-manufactured Prima Dental crown cutting drills for UAH 56 and 61 apiece, respectively, and TBC burs for UAH 83 and 92 apiece, respectively.

EXAMPLES OF TENDERS: UA-2017-06-27-000098-c, UA-2017-04-06-000335-c, UA-2017-06-01-000724-c, UA-2017-02-22-000504-c.

CASE 2. How much does the interior of Odesa Academy of Law cost?

 **DESCRIPTION OF PROBLEM:** Odesa Academy of Law, National University renovates the interior by making direct contracts with contractors. The Academy procures new furniture, furniture upholstery repair works, carpentry and décor items. In total, the Academy signed nine contracts worth almost UAH 1.8 million, with the value of each of them falling within the UAH 195 to 199 thousand range. This amount was distributed between two sole proprietorships, whereas the procured goods and services are competitive.

The splitting of the subjects of procurement by Odesa Academy of Law for the purpose of avoiding open tenders is highly probable. For instance, they signed three contracts on the replacement of leather furniture parts and upholstery worth the total of UAH 594,216. In all cases, the contractor was M.V. Kovalchuk Sole Proprietorship.

Of the total number of this contracting authority's procurements made during the half-year, 88% used the contract reporting procedure.

 **EXAMPLES OF TENDERS:** UA-2017-05-29-000293-b, UA-2017-03-24-000780-b, UA-2017-02-14-000681-a.

In the case of works, the price range for analysis of e-procurements was set between UAH 1.45 million and UAH 1.5 million. 190 cases fell within this range, a figure close to the number of cases revealed in the second half of 2016 (184 cases). Six lots was the maximum number per supplier, and 11 cases featuring 3 to 6 lots have been found. The majority of sampling were one-time procurements from new tenderers. It is worth noting that these 11 cases alone are responsible for almost UAH 63.5 million in expected value (see: Annex 3). Such a small number of cases allows everyone interested in transparency of procurements to analyze each of them in greater detail.

period of time has revealed 12 problematic cases. Almost UAH 76.4 million was spent on these procurements alone. A search of possible avoidance of open tenders has revealed 6,159 instances involving procurement of goods and services, and 190 instances of procurement of works, when the average lot price was close to the thresholds set by the Law. Over UAH 222 million was spent on the instances included to annexes to this report alone. An analysis of certain cases, e.g. procurement prices for renovation of interior at Odesa Academy of Law, National University, has revealed a high probability of inefficient spending of public funds as a result of avoidance of competition and overstatement of prices.

CASE 3. Identical renovation of schools in Boryspil

 **DESCRIPTION OF PROBLEM:** The Department of Capital Construction of Boryspil City Council is renovating six secondary schools. The value of neither of these renovation projects exceeds the threshold of UAH 1.5 million. Like in the case of Odesa Academy of Law, the unwillingness to organize open tenders is highly probable. The prices set for finishing work and new major renovation were almost identical: from UAH 1,478,273 to UAH 1,499,182. The total amount paid to the contractor handling all these projects, Boryspil Building Materials Factory PJSC, was UAH 8.95 million.

Among all procurements made by the Department of Capital Construction of Boryspil City Council during the first half of 2017, only one (out of 31) used a procedure other than contract reporting.

 **EXAMPLES OF TENDERS:** UA-2017-05-12-000025-c, UA-2017-05-12-000011-c, UA-2017-03-07-000672-b.

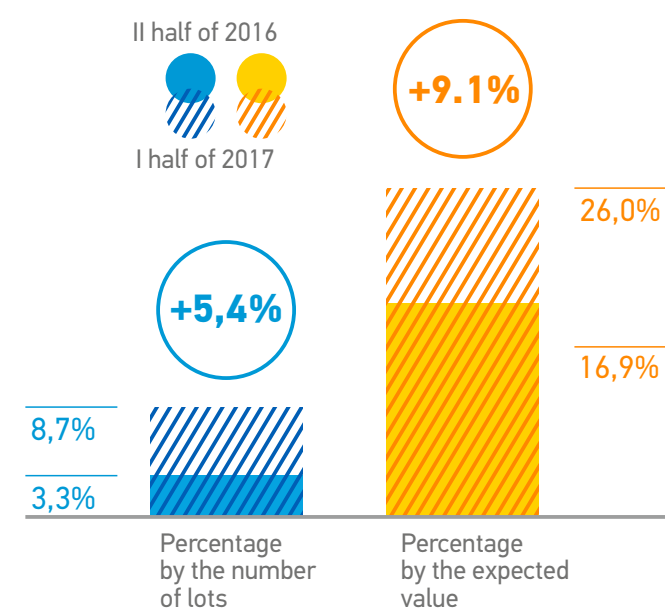
Overall, the majority of public procurements are still being made using direct contracts. Comparing to the second half of 2016, the percentage of the number of procurements made via contract reporting has increased by 7.5%. On the other hand, a 9% decrease in the amount of funds spent this way represents a positive change. Still, almost 15% of all ProZorro procurement costs is a significant indicator. A search of close relationships between contracting authorities and suppliers over a long

2.2. Negotiation procedure

Negotiation procedure is commonly used for procurements from natural monopolists. In the first half of 2017, the percentage of lots procured using this procedure has increased vs the end of 2016, both in terms of the number and in terms of the value of lots. Thus, contracts made after the end of negotiation procedure amount to 8.7% of the number (35,792) and 26% of the value (UAH 63.3

billion) of all completed lots (see: Diagram 2). The key factor contributing to these dynamics is the fact that utility services, typical for this procedure, are procured at the beginning of a year (MEDT & TI Ukraine, 2017, p. 3), mainly from natural monopolists providing these services. TI Ukraine legal advisors place emphasis on the following groups of violations that may concern negotiation procedure: “price overstatement” and “possible avoidance of open tender procedure”. As we can see, the percentage of procurements made via negotiation procedure has increased. It can be expected at the year's beginning, when utility services are usually procured. However, since this procedure involves typical violations for non-competitive tenders, it must be monitored from the standpoint of the reasons for its use.

Diagram 2. Dynamics of the percentage of negotiation procedure in all procurements in terms of the number and expected value of completed lots (second half of 2016 – first half of 2017)



The most common reason for using negotiation procedure is the “Absence of competition in the market concerned” (see: Table 7). This reason was used in the case of 76.4% of lots with the expected value of 54.3% of the total value of lots under this procedure. Comparing to the previous period, the percentage of lots purchased for this reason has increased by 13% in terms of the number but declined by 15% in terms of the value. The fact that almost half of all funds spent using this procedure – UAH 28.9 billion – was

spent for reasons other than the absence of competition is a rather negative pattern. In particular, the second most common reason is cancelation of tender by the contracting authority twice due to unavailability of a sufficient number of tenderers: 18.9% and 12.7%, respectively. The statistics for this reason almost has not changed. All other reasons combined are responsible for less than 5% of the number of lots but close to 33% of the value for this procedure. The growing share of these reasons, by 12% in terms of value comparing to the second half of 2016, is worth noting. The legality of their use must also be checked in every particular procurement case.



Table 7. Breakdown of the number and value of contracts by reasons for using negotiation procedure

Reason	Number of contracts	Value of contracts (UAH)
TOTAL	35 792	63 337 172 898
Absence of competition in the market concerned	27 349	34 443 346 816
Procurement of works of art	351	628 993 096
Procurement of legal services	5	194 837 800
Contracting authority cancels the tender twice due to unavailability of a sufficient number of tenderers	6 769	8 052 559 166
Urgent procurement	432	14 072 714 848
Additional construction work is required	86	466 971 764
Additional procurement is required	740	5 424 007 077
Not stated	60	53 742 331

Note that almost UAH 14 billion was spent for the “Urgent procurement” reason. This is a very large amount for 432 lots. The instance of violation committed during one of those procurement tenders is examined below.

CASE 4. Price of Antarctic expedition

DESCRIPTION OF PROBLEM: Negotiation procedure was used to procure Antarctic expedition-related services for the National Center for Antarctic Research, State Institution. The stated reason was urgent procurement, and the procurement amount was UAH 39.2 million. This figure amounted to 99% of the value of all procurements made by this contracting authority during the half-year. However, the contract posted in the e-procurement system does not specify what services related to organization of an expedition were procured.

A legal analysis of this tender has revealed unjustifiable use of negotiation procedure and possible conspiracy between the contracting authority and the tender's winner (Lakhtionov, 2017b). In addition, this expedition has eventually sailed on the vessel of the competitor company which appealed the results of this procurement tender, offering the price UAH 12 million lower (Lakhtionov, 2017a). TI Ukraine has forwarded the corresponding letters to law enforcement authorities, demanding inquiry into legality of this procurement and bringing charges against its organizer.

EXAMPLES OF TENDERS: UA-2017-03-06-001544-b.

Overall, the use of negotiation procedure has increased versus the second half of 2016, both in terms of the number (by 5.4%) and in terms of the value (by 9.1%) of contracts. Of the total amount of funds spent during this period, negotiation procedure was responsible for one quarter of them. This figure is very high, even considering the fact that utility services, a typical subject for this procurement, are procured at the year's beginning. Almost half of all funds spent using negotiation procedure – UAH 28.9 billion – was spent for reasons other than the absence of competition. In particular, more than UAH 14 billion was spent for the “Urgent procurement” reason. An example of a procurement of this category involving violation of the applicable regulations is the procurement of services for an Antarctic expedition of the National Center for Antarctic Research. In that case, the subject of procurement was competitive and the amount spent on it was unjustifiably high.

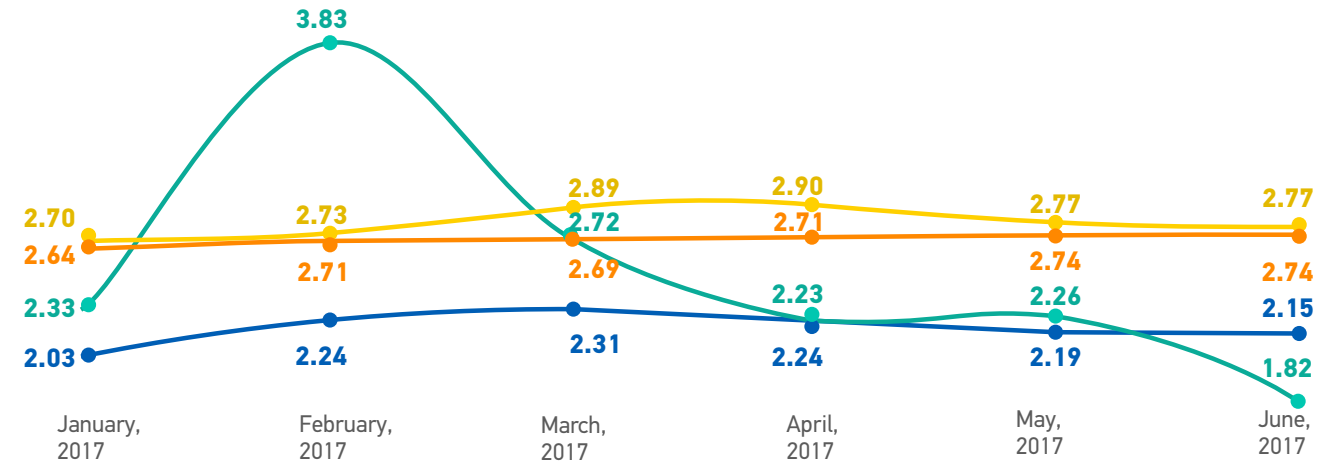
3. Competitive procurements

In terms of the number of completed lots during the first half of 2017, competitive procurements were responsible for only 32.6%. In terms of expected value, though, the situation was better: 59.3% of all expenses. Let's review in greater detail the processes which occurred during these procurement tenders.

3.1. Competition trends

Competition¹⁰ was reviewed mainly through the prism of statistical data for sub-threshold procurements and open tenders, because these two procurement types combined are responsible for 96.3% of completed procurement lots. We state the absence of the increase of their competitiveness comparing to the end of 2016 (see: Diagram 3). In particular, the average rate of competition at sub-threshold procurements was 2.2, the same as in the previous period, fluctuating monthly from the bottom in June (2.15) and peaking in March (2.31).¹¹ For open tenders, the average indicator is 2.71 (vs 2.9 in the previous period), fluctuating from 2.69 in March to 2.74 in May. It is worth noting that a similar situation is observed at open tenders with English-language publication: the average indicator of 2.8 offers per tender is slightly lower than in the previous period, but it doesn't have monthly decline trend. Overall, competition during the first half of 2017 was slightly lower than at the end of the previous year, but unlike in the previous period (TI Ukraine, 2017c, p. 34), it stayed at a relatively the same level during the six months. Therefore, competition does not have the tendency toward monthly decline.

Diagram 3. Competition dynamics by procurement types, January-June 2017



¹⁰ The competition indicator is measured on the basis of the average number of offers received during one procurement tender.

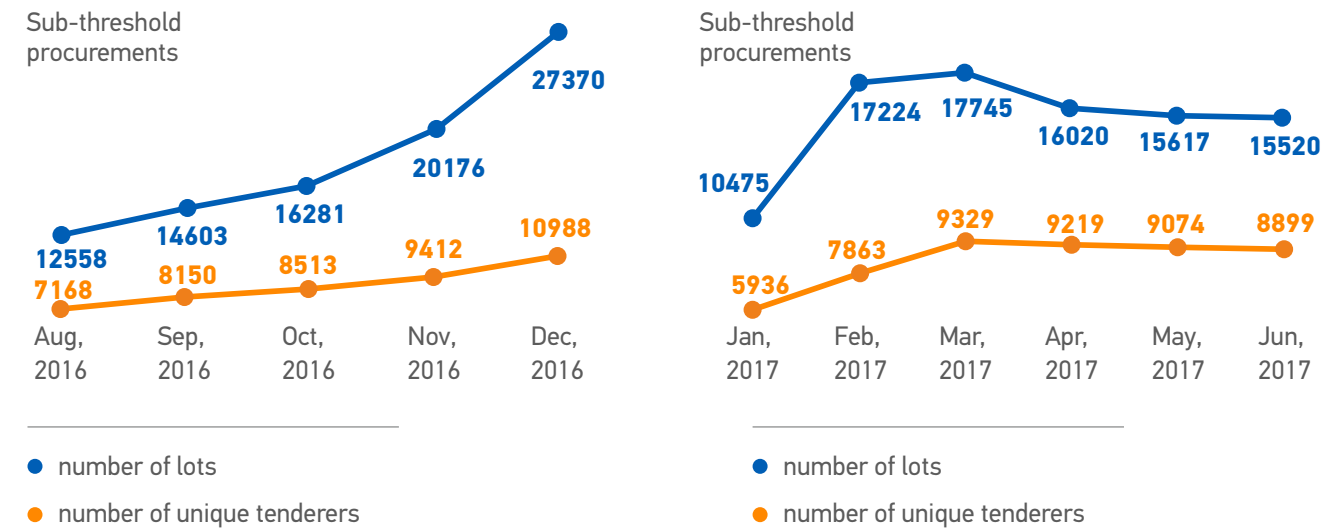
¹¹ The lowest competition indicators are in January, but this month cannot be considered indicative. In this month, most contracting authorities are forming their budget, which requires approval by the State Treasury Service. In addition, a substantial part of January falls to a holiday season at the year's beginning. Many contracting authorities start spending only in February.

Possible reasons for cessation of the negative monthly competition trend during the first half of 2017:

- 1. Growing monthly number of unique tenderers in e-procurement system at the level of growth in the monthly number of completed lots and offers per tenderer.
- 2. Relatively stable monthly number of unique tenderers with the relatively stable monthly number of completed lots and offers per tenderer.

The above hypotheses were checked by comparing the monthly number of completed lots, unique tenderers and offers per tenderer. Thus, the maximum number of completed lots at sub-threshold procurements reached 17,745 in March (see: Diagram 4). During February-June, this figure fluctuated from 15.5 to 17.7 thousand. On the other hand, during the previous period it was constantly

Diagram 4. Dynamics of the number of lots (blue) and the number of unique tenderers (red) for sub-threshold procurements (second half of 2016 – first half of 2017)

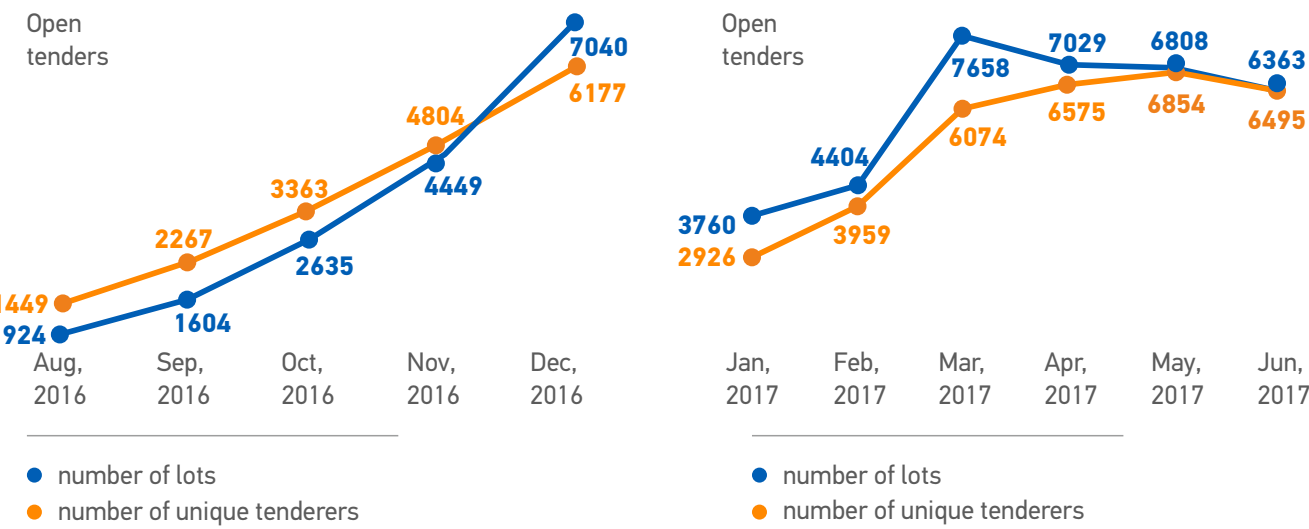


growing, exceeding 27 thousand in January. In terms of the number of unique tenderers, the period from March to June 2017 is characterized by the relatively stable number: almost 9 thousand. As with the number of completed lots, this indicator did not reach the figures of the last year's end. The average number of offers per tenderer stayed at 3.8-3.9 in April-June, slightly declining after February-March when the number of sub-threshold procurements has surged. As we can see, the monthly

number of completed lots has been fluctuating within a narrow range. The number of unique tenderers was relatively stable, and the average number of offers per tenderer did not change during April-June. Therefore, the hypothesis 2 has proved true.

As for open tenders, after the surge from 4,404 to 7,658 in March, the number of completed lots has been fluctuating between 7.6 and 6.3 thousand during March-June, slightly declining every month (see: Diagram 5). In some months, the indicators which ProZorro reached in December 2016 – almost 7 thousand – have been exceeded. At the same time, the number of unique tenderers at open tenders surged from 3,959 to 6,074 in March and then continued to gradually rise in March-May, staying at 6.5 thousand in June. In the previous period, this indicator peaked at 6 thousand. As for the average number of offers per tenderer, after reaching the highest point in March (3.4)

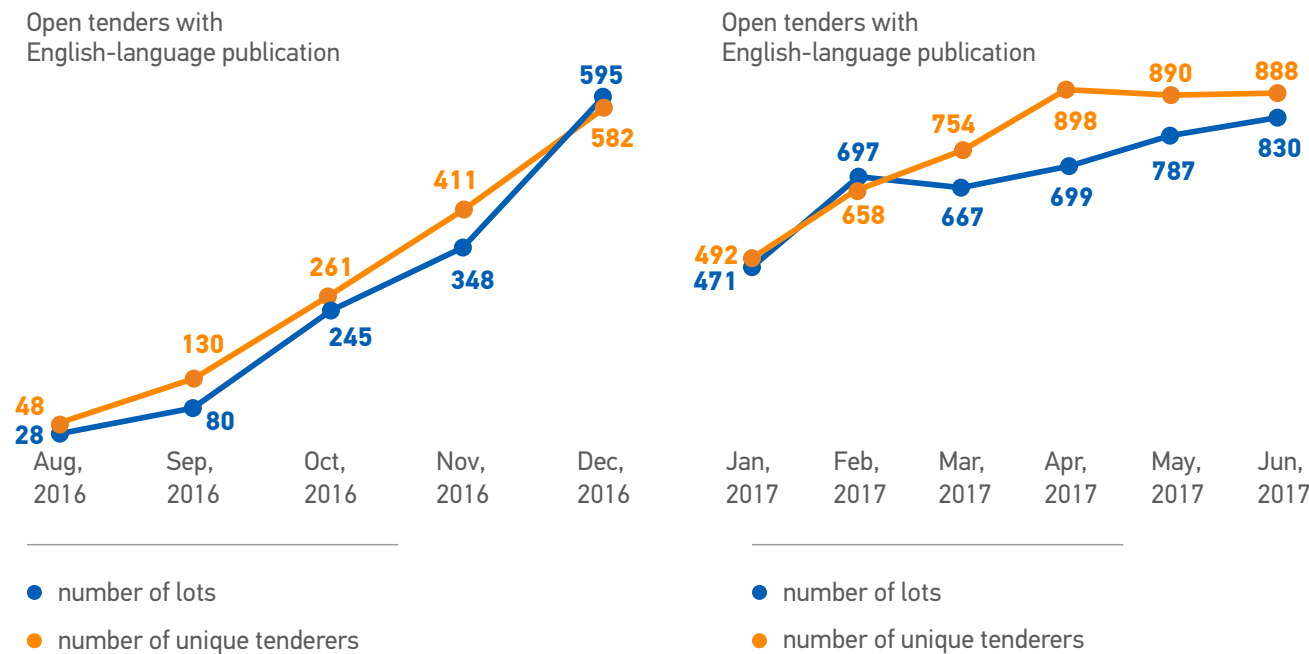
Diagram 5. Dynamics of the number of lots (blue) and the number of unique tenderers (red) for open tenders (second half of 2016 – first half of 2017)



Outside the scope of checking hypotheses concerning competition, the growing number of completed lots could be observed at open tenders with English-language publication almost every month: from 697 in February to 830 in June (see: Diagram 6). Although less linear, the number of unique tenderers was growing, too: from 658 to 888. These figures continued the trend of the second half of 2016, when monthly increase of the number of lots stopped at 595 and that of the number of unique tenderers

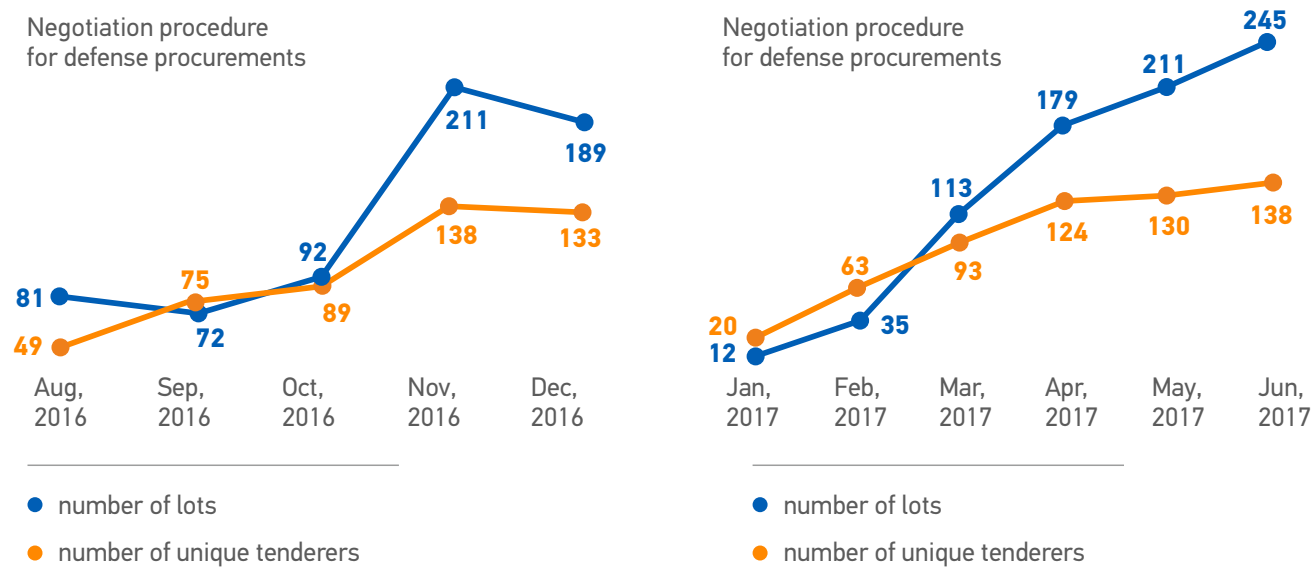
at 582 in January. On the other hand, the number of offers per tenderer has no clear trend, fluctuating between 2.3 and 2.6 during March-June. Therefore, the e-procurement system was being used more actively for procurements of this type, as the number of unique tenderers and completed lots continued to increase every month. However, the competition level remained relatively stable, because the number of offers per tenderer did not grow yet.

Diagram 6. Dynamics of the number of lots (blue) and the number of unique tenderers (red) for open tenders with English-language publication (second half of 2016 – first half of 2017)



Speaking about negotiation procedure for defense procurements, the number of completed lots and unique tenderers has been growing every month (see: Diagram 7). However, unlike in the case of open tenders with English-language publication, these figures remain more or less within the same range as at the end of 2016. Thus, the maximum monthly number of lots went up from 211 in November 2016 to 245 in June 2017, while the largest number of tenderers stayed at 138. After very low indicators during the first months of 2017, the number of

Diagram 7. Dynamics of the number of lots (blue) and the number of unique tenderers (red) for negotiation procedure for defense procurements (second half of 2016 – first half of 2017)



offers per tenderer has been staying at 3.2-3.3, except in May (3.7). We observe a slow launch of procurements using this procedure at the year's beginning, whereas the May-June indicators are staying at the level of the end of 2016. The negative competition trend for this procedure is explained by the much faster increase in the number of completed lots vis-à-vis the growth in the number of unique tenderers and offers per tenderer.

Overall, during the first half of 2017 the monthly competition trend in ProZorro has stabilized. In the case of sub-threshold procurements, such situation can be explained by the relatively stable monthly number of completed lots, unique tenderers and offers per tenderer. The number of completed lots somewhat declined during the spring of 2017. The probable cause for that could be negative trend in the growing usage of contract reporting rather than organizing sub-threshold procurement tenders.

In the case of open tenders, the number of unique tenderers continued to gradually increase, whereas the number of completed lots and offers per tenderer has stabilized after the March surge, and even began to slightly decrease. In that case, the probable cause is that the market is gradually catching up with ProZorro's development, as the growing number of potential suppliers proves. Still, the choice for procurements does not become wider yet, because the same tenderer submits relatively the same number of offers every month. As for

the open tenders with English-language publication, the use of the e-procurement system continues to rise: the number of completed lots and the number of unique tenderers are growing. However, as in the case of open tenders, the same tenderer submits relatively the same number of offers.

Negotiation procedure for defense procurements is the only procurement procedure where the competition trend is negative. It is characterized by insignificant use of the e-procurement system at the year's beginning, which may be explained by formation of budget for the current year of the main contracting authority, the Defense Ministry of Ukraine. The monthly number of completed lots is also growing faster than the number of unique tenderers and the number of offers per tenderer.

3.2. Disqualification trends and government monitoring

The percentage of disqualifications at competitive tenders was 9.7% on average,¹² whereas during the previous period, this figure was 9.2%. The slight increase was caused by the fact that for sub-threshold procurements, the percentage of disqualifications fluctuated between 8.8% and 9.3% during March-June (see: Diagram 8), while at the end of 2016, this indicator did not exceed 8.5%. In the case of open tenders, we

Diagram 8. Dynamics of the percentage of disqualifications by procurement types, January-June 2017

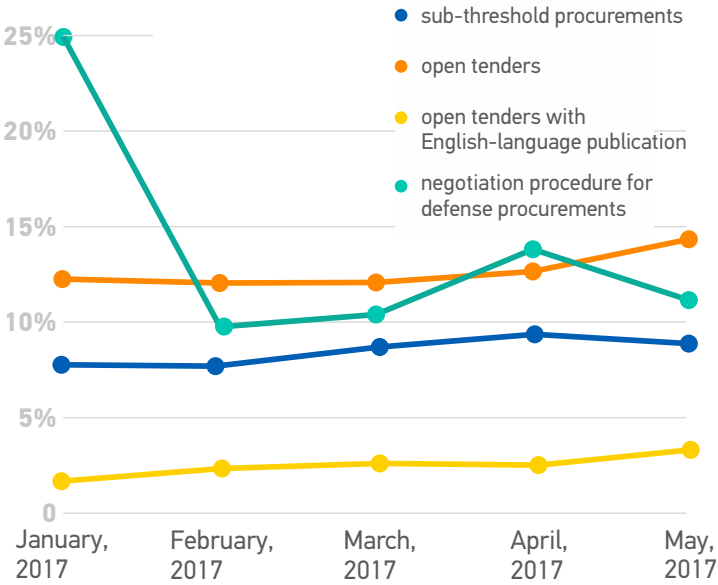
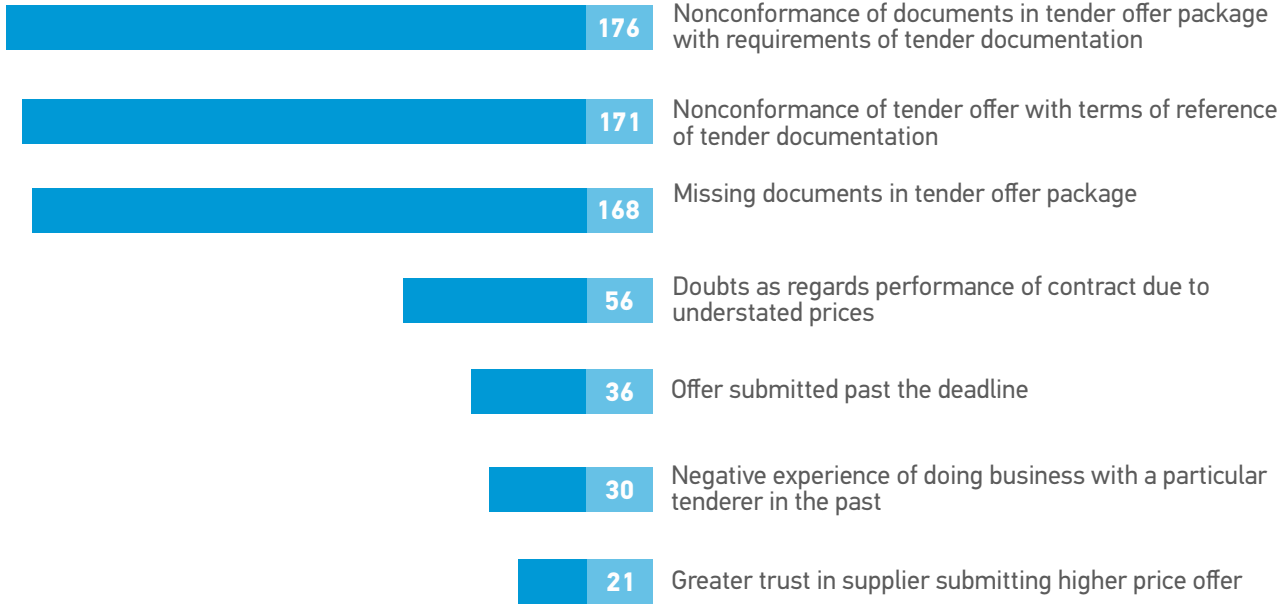


Diagram 9. The most commonly-occurring reasons for disqualification of tenderers¹³



observe the contrary, positive dynamics comparing to the previous period, yet this percentage did not decrease below 12%. In May and June, the share of disqualifications at open tenders with English-language publication went above 3%. In the case of negotiation procedure for defense procurements, this percentage stayed above 10% during March-June. As we can see, the percentage of disqualifications at sub-threshold procurements was somewhat higher than in the previous period, crossing the 9% mark. At the same time, this indicator for open tenders was slightly declining, although remaining at the above-the-average level. It is fair to say that comparing to the end of 2016, widespread disqualifications remain a problem.

To explain these trends in the share of disqualifications, let's take a look at the results of an online survey of contracting authorities, conducted particularly for this report. In particular, our respondents named the following most commonly-occurring reasons for disqualification (see: Diagram 9): "Nonconformance of documents in tender offer package with requirements of tender documentation" (176), "Nonconformance of tender offer with terms of reference of tender documentation" (171) and "Missing documents in tender offer package" (168).

¹² The percentage of disqualifications is calculated by dividing the number of disqualified offers by the total number of offers for the particular procurement type during a selected period.
¹³ Every respondent could select one or more variants of reasons for disqualifications.

Answering the open question regarding the ways of improving the situation with disqualifications, the contracting authorities provided 88 responses which we combined into five categories:¹⁴ “Improving good faith in tenderers” (37), “Restricting participation of tenderers acting in bad faith” (15), “Amending legislative framework regulating procurements” (14), “Simplifying requirements to tender offers, integration with electronic registers” (12) and “Improving quality of tender announcements from contracting authorities” (10). Among the most interesting suggestions, the following are worth mentioning:

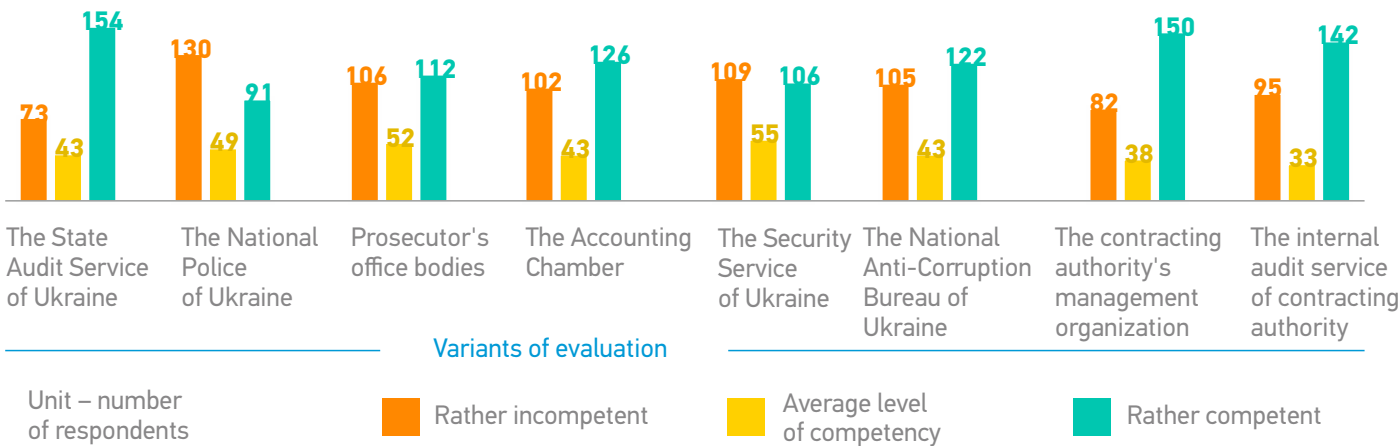
- “Training tenderers' experts [in public procurements]”
- “Quality preparation of tender documentation by contracting authority. Unification of requirements concerning confirmation of circumstances under Article 17 (specific list of documents and authorities issuing them). Communicating the list of documents which cannot be required from tenderers (regarding VAT, EDRPOU, etc.) to contracting authorities”
- “Liability of the parties can be stipulated in procurement contract, no legislative changes required”
- “In my opinion, the system must be automated to have tenderers complete more forms which the system could subsequently evaluate”
- “Allowing tenderers to upload missing documents after opening [tender offers], if the tenderer has these documents but for some reason did not upload them. Permitting to reject tenderers on the grounds of past negative experience”.

The unsatisfactory situation with disqualifications may be related to the quality of government monitoring of procurements. Among the aforementioned responses, there are no suggestions to punish contracting authorities for infringing the tenderers' rights during the tender, which is quite predictable, considering that the respondents were contracting authorities themselves. Checking and charging them with liability is the function of controlling and law enforcement authorities. Thus, the State Audit Service of Ukraine (the main controlling authority in public procurement sector) reports the prevention of violations amounting to UAH 6.6 billion

during the first half of 2017. In particular, SASU maintains that it has canceled 474 tenders with the aggregate value of close to UAH 6 billion, and terminated contracts signed upon completion of 108 tenders (SASU, 2017). On the other hand, 56.3% of respondents said that they have never been inspected by SASU since the launch of ProZorro. Only half of state enterprises and executive bodies in our sample have been inspected at least once, whereas among municipal enterprises, this figure is less than 40%. However, other controlling authorities have even worse activity indicators, and only the contracting authority's management organization conducts checks at the level of SASU: 47% of SEs and MEs underwent these checks. Therefore, insufficient monitoring activity on part of controlling authorities is probable.

Besides the activity of controllers, we should also review the perception of their competence by contracting authorities. 27% of respondents¹⁵ consider SASU a rather incompetent body in public procurement sector (see: Annex with distribution of responses). At the same time, 57% of respondents believe that SASU is a rather competent body.¹⁶ A telling fact: among the controlling authorities inspected by SASU at least once, the perception rate increases insignificantly, within the statistical sampling error: 22% of them believe that this controlling body is incompetent, while 62.7% consider it competent. As for other external controlling and law enforcement bodies, the rate of their perception as incompetent reaches 37.4% for the Accounting Chamber (28.9% among those inspected at least once) and higher (see: Diagram 10). As in the case of inspection activity, only the contracting authority's management organization has the indicators of trust comparative to the ones of SASU: 30.1% consider this organization rather incompetent, and 55.7% rather competent (21.9% and 66.7% after inspections). As we can see, only slightly more than half of respondents consider SASU a competent authority, while more than quarter of them regarding it as incompetent. Among the contracting authorities inspected at least once, the perception of SASU's competence increases, but not significantly. Other external controlling and law enforcement bodies enjoy even worse indicators.

Diagram 10. Competence of controlling / law enforcement bodies in public procurement sector, evaluated by contracting authorities¹⁷



Overall, the percentage of disqualifications slightly increases for sub-threshold procurements and for open tenders remains higher than average for competitive procedures, comparing to the second half of 2016. Our online survey of contracting authorities reveals approximate reasons for this situation: non-conformance of tender offers with tender requirements and missing required documents in the tender offer package. According to contracting authorities, the main ways of amending the situation with disqualifications is the work on improving good faith in tenderers, clarifying the procurement legislation, further electronization and increasing interoperability of ProZorro.

At the same time, contracting authorities predictably do not place emphasis on their actions that could result in unfounded disqualifications. These actions must be identified by controlling authorities. The results of our survey give reasons to believe that their inspection activity and the perception of their competence by contracting authorities are low. In particular, SASU as the main controlling body in public procurement sector has the following indicators: less than half of our respondents have been inspected at least once since the launch of ProZorro, and almost one-quarter of them consider this body incompetent. Among the contracting authorities inspected by SASU at least once, the perception of its competence is higher by only 5%. Unfortunately, other controlling authorities (except internal controlling bodies of contracting authorities) have even worse indicators.

3.3. Negotiation procedure for defense procurements

In the context of situation in Ukraine's defense sector, this procedure, regulated by the separate Law of Ukraine On the Procedure of Procuring Goods, Works and Services for Guaranteed Satisfaction of Defense Needs (VRU, 2017b), continues to be actively used. Its requirements are less strict than those applied to open tenders, and the amount of spending under this procedure is significant, even though it is more competitive comparing to the standard negotiation procedure under the Law of Ukraine On Public Procurements. For these reasons, the use of this procedure requires close attention from the civil society.

We observe the growing use of negotiation procedure for defense procurements comparing to the second half of 2016: by 23.8% in terms of the number and by 20% in terms of the value of contracts. During the reporting period, over UAH 6.6 billion has been spent under this procedure. The percentage of Defense Ministry's contracts has decreased by almost 10% in terms of their number, amounting to 38.5% of all lots offered under this procedure. On the other hand, this indicator has significantly increased in terms of the value of contracts: from 59% to 87.5%. The number of unique tenderers participating in this procedure remains almost the same: 402, and the average competition rate remains the lowest among all procedures: 2.2 tenderers per tender. The percentage of disqualified offers went down by 4%, but still remains high: 11.6%. Therefore, the weight of this

¹⁴ Every response could be included to one or several categories.

¹⁵ The respondents giving 1 or 2 points on the 5-point scale

¹⁶ The respondents giving 4 or 5 points on the 5-point scale

¹⁷ Every respondent could select one variant of evaluation for every body.

procedure in the reporting period has grown. The percentage of Defense Ministry's spending is much higher than at the end of 2016. It can be explained by the absence of abnormal procurements by the Center for Services to National Police Units and by the National Police of Ukraine, spotted in the previous period (TI Ukraine, 2017c, p. 37). The percentage of disqualifications has somewhat improved, but the competition rate remains low.

The top three contracting authorities in terms of expected value predictably come from defense sector: the Ministry of Defense of Ukraine, procuring on behalf of many lesser contracting authorities, the Military Unit 1471 as the main procurement body of the State Border Guard Service, and the Military Unit 3078 as the main procurement body of the National Guard of Ukraine (see: Table 8). They are

Table 8. Top three contracting authorities in terms of expected value for negotiation procedure for defense procurements

Organizer	Number of lots	Expected value of lots (UAH)	Number of unique tenderers	Average number of offers per tender	Percentage of disqualifications	Percentage of cost saving
Ministry of Defense of Ukraine	308	5 813 143 517	134	2,36	14%	2,83%
Military Unit 1471	189	202 890 048	110	2,65	7%	16,5%
Military Unit 3078	35	160 744 486	34	2,43	27%	4,13%

responsible for 66.5% of all lots completed under this procedure. For all of them, the degree of competition is above the average. At the same time, the Defense Ministry is notable for a high percentage of disqualified offers: 14%, which probably affects its cost saving indicator: only

2.83%. A similar situation is observed in the case of the Military Unit 3078. On the other hand, the Military Unit 1471 not only has the best competition indicator (2.65) but also displays moderate eagerness to disqualify tender offers (7%), reaching the cost saving rate of 16.5%. As we can see, the list of main contracting authorities is predictable, unlike in the previous period when two contracting authorities from the National Police of Ukraine spent over UAH 1.5 billion under this procedure. The tenders organized by these contracting authorities are characterized by the competition rate higher than the average for this procedure. However, only the Military Unit 1471 was able to reach high degree of cost saving, whereas the Defense Ministry and the Military Unit 3078 were not, probably because of the practice of disqualifying a large portion of tenderers.

Since this procedure is intended to guarantee that Ukraine's defense needs will be met, the subjects of procurement need to be analyzed, for they could have a purpose other than the intended one. One of the instances like that was the procurement of electric stoves by the Ministry of Defense of Ukraine.

CASE 5. Electric stoves for defense needs

DESCRIPTION OF PROBLEM: The Ministry of Defense of Ukraine used negotiation procedure for defense procurements to procure 65 electric stoves at the price of UAH 902,200. The procurement was split into three lots, each won by Arm-Eco LLC. Delivery terms for most (57) of the electric stoves vary from 15 September to 15 November 2017, whereas the contract with the winner was signed on 26 June, i.e. almost three months before the commencement of delivery. Considering these delivery terms and the subject of procurement, the expediency of this procurement under the Law of Ukraine On the Procedure of Procuring Goods, Works and Services for Guaranteed Satisfaction of Defense Needs is questionable.

EXAMPLES OF TENDERS: UA-2017-05-13-001318-b.



Overall, the weight of negotiation procedure for defense procurements has increased, in terms of both the number and the value of contracts, comparing to the second half of 2016. At the same time, the rate of competition is slightly declining: 2.2 offers per tender, while the cost saving remains the same: 3.6%.¹⁸ The high percentage of disqualified offers has improved, but still remains high: 11.6%. The key change comparing to the previous period is the fact that Defense Ministry was responsible for the four-fifths of all spending under this procedure, while abnormal activity of the National Police's contracting authorities was no longer observed. At the same time, the specific-purpose purchases of contracting authorities were not without problems: high rate of tenderer disqualifications and low percentage of cost saving. It is very important to monitor the subjects of procurement from the viewpoint of justifiable use of this procedure. Thus, although Defense Ministry is the appropriate contracting authority, the example of procurement of electric stoves by this ministry indicates possible unjustifiable use of this procedure.

3.4. Open tenders with English-language publication

Comparing to the second half of 2016, the use of open tenders with English-language publication is on the rise. 4,151 lots worth the total of UAH 77 billion were purchased under this procurement procedure: almost four times more lots and almost five times more money spent. These procurements are very significant: although they are responsible for only 1% of contracts, in terms of the value they are responsible for 34.8% of spending during the half-year. The number of unique tenderers has increased threefold, to 3,045, and they submitted 11,612 offers, or almost four times more than in the previous period. The competition rate has declined from almost 3 to 2.8 offers per tender, but still remains the highest

among all procurement types. At the same time, the cost saving rate has increased from 7.7% to 8.4%. As we can see, this procurement procedure was responsible for one-third of all money spent by contracting authorities. They undergo the phase of rapid growth in usage, in particular, the growing number and value of contracts, number of unique tenderers and price offers. The competition rate is slightly declining but still remains high, while cost savings are somewhat increasing.

Every unique tenderer has submitted 3.8 offers on average, of which 2.7% were disqualified. This disqualification indicator may be considered normal where prequalification is involved. At the same time, these procurements still need to be checked for the existence of other potential violations. According to TI Ukraine's legal advisors, typical violations committed in procurements of this type are "conspiracy" and "unfounded determination of winner".

In the context of possible conspiracies, it is important to analyze the tenderers which haven't won a single lot. We have discovered 24 instances when tenderers have submitted 10 or more offers without a win, while in the second half of 2016, there were only six such instances (see: Annex 4). All together, they have submitted 606 offers. In particular, eight of them made more than 20 unsuccessful offers each. The total value of these offers alone exceeds UAH 302.3 million (see: Table 9). In the previous period, the maximum number of unsuccessful offers per tenderer was 18. It is important to stress that, among these eight tenderers, only Yug-Gaz LLC has the experience of not being admitted to the tender at prequalification stage: in 12 cases out of 21. All others have been losing tenders only because of submitting unsuccessful offers. As we see, unsuccessful participation in tenders becomes more commonplace with the growing popularity of this procedure. It may indicate the increasing number of instances of conspiracy among tenderers.

¹⁸ 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 quotient by 100.

Table 9. Tenderers losing 20 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
Hanna Mykolaivna Hodyna Sole Proprietorship	132	10 211 803	0
Ingul LLC	34	31 092 248	0
Zenit ME of Desnianskyi Raion in Kyiv	32	60 463 614	0
Natalia Mykolaivna Ovodenko Sole Proprietorship	30	13 691 950 ¹⁹	-
Albina Ivanivna Sivenkova Sole Proprietorship	30	13 691 950	-
Olena Petrivna Koshmak Sole Proprietorship	30	5 175 206	0
Elektrotekh LLC	29	143 542 346	0
Yug-Gaz LLC	21	51 860 416	12

¹⁹ Information regarding the value of offers and number of offers failing prequalification is unavailable for Natalia Mykolaivna Ovodenko Sole Proprietorship and Albina Ivanivna Sivenkova Sole Proprietorship. For these tenderers, the table cites the expected value of lots for which they submitted offers.

Elektrotekh LLC is the “leader” in terms of the value of losing offers: 29 unsuccessful offers worth the total of over UAH 143.5 million. This tenderer participates in tenders on supply of spare parts for electric locomotives, diesel locomotives and passenger cars. Even considering the limited size of this market, the fact that in 23 instances out of 29 the contract was won by Transinvest

NTP and the sole competitor in most of them was Elektrotekh LLC is worth noting. The average competition rate at the tenders with its participation – only 2.3 offers – is much lower than the average indicator for open tenders with English-language publication. Even though this market may be quite limited in size, the complete absence of wins by Elektrotekh LLC indicates a probable conspiracy between the aforementioned tenderers.

🔍 CASE 6. When Metro works well

👤 **DESCRIPTION OF PROBLEM:** Kyiv Metro ME procured wheelsets for metro trains. The value of a potential procurement from Interpipe Ukraine LLC was almost UAH 10 million. After conclusion of tender, a feedback was received on DOZORRO that the contracting authority violated the procedure of prequalification for two tenderers: Interpipe Ukraine LLC and Business Global LLC. These tenderers classified their tender offers as confidential (not to be disclosed in the e-procurement system), thus violating the law. The contracting authority allowed them to participate in the tender, which eventually was won by Interpipe Ukraine LLC. After reviewing this case, TI Ukraine legal advisors applied to SASU, Kyiv City State Administration and Kyiv Metro ME with the demand to cancel the procurement (DOZORRO, 2017). The organizer acceded and canceled the tender.

📄 **EXAMPLES OF TENDERS:** UA-2017-01-16-001135-a.

Now, let's take a look at tender organizers whose lots attract the least number of unique tenderers. There are three contracting authorities offering more than 80 lots and attracting less than 20 unique tenderers. For comparison: in the previous period, we analyzed instances with more than 10 lots and less than 2 unique tenderers, which proves the growing usage of this procurement procedure. These contracting authorities are the Department of Education of Kherson City Council, Department of Education of the Executive Committee of Poltava City Council, and Department of Education and Science of Odesa City Council (see: Table 10). They are responsible for 362 lots with the expected value of almost UAH 340 million. In all cases, contracting authorities procured large quantities of foodstuffs or services concerning organization of food service at educational institutions. Disqualifications were not an obstacle to participate in tenders of these contracting authorities. However, low activity of tenderers meant that cost savings in all cases was below the average for these procurement procedures.

Table 10. Tender organizers with more than 80 lots and less than 20 unique tenderers on average in open tenders with English-language publication

Organizer	Number of lots	Expected value of lots (UAH)	Number of unique tenderers	Number of price offers	Number of disqualifications	% of cost saving
Department of Education of Kherson City Council	183	63 372 423	11	462	0	3,37%
Department of Education of the Executive Committee of Poltava City Council	92	32 739 387	19	201	7	6,55%
Department of Education and Science of Odesa City Council	87	243 750 039	11	182	0	1,61%

In sum, the use of open tenders with English-language publication continues to rise, and the growth of both the number of completed lots and the amount of moneys spent on these lots attest to that. The competition at these procurement tenders remains the most intense among all procurement procedures: 2.8 offers per tender, while the cost savings went up to 8.4%. On the other hand, there were 24 potential suppliers who submitted from 10 offers up without winning a single of them, and this indicator is four times higher comparing to the second half of 2016. Among them, eight tenderers have submitted more than 20 unsuccessful offers worth the total of UAH 302.3 million. We have also identified three contracting

authorities with more than 80 lots and less than 20 unique tenderers. They announced 362 lots with the expected value of almost UAH 340 million; the cost saving rate at tenders held by these contracting authorities was below the average, and for two of them, it was less than 4%. Therefore, the growing use of this procurement procedure goes hand-in-hand with the increase in the number of unsuccessful tender offers and in the volume of procurements from contracting authorities whose lots do not attract business. In particular, the problem is unfounded determination of winner, an example of which is the aforementioned canceled procurement tender held by Kyiv Metro ME.

3.5. Open tenders

The use of open tenders is rising, although not as fast as the use of open tenders with English-language publication. Thus, during the analyzed period, contracting

authorities have procured 36,032 lots worth the total of UAH 33.4 billion via this procurement procedure. These figures exceed the previous period's indicators more than two times in terms of the volume and one and a half times in terms of the value of procurements. 17.5 thousand tenderers participated in these tenders, which was almost 6 thousand more than in the second half of 2016. The competition rate was slightly lower than in the previous period: 2.7 offers per tender versus 2.9, but the percentage of cost saving did not change significantly: 10.4% vs 11.1%. We also observe positive dynamics in the percentage of disqualified offers, which has declined from 15.8% to 12.8%. Therefore, this procedure is being used

more actively than in the second half of 2016. The competition is quite low; however, it does not show the signs of further decline. Cost savings remain at the previous period's level, while the situation with disqualifications has improved by 3%.

Among the typical violations for this procurement procedure are “discriminatory requirements”, “unfounded disqualification”, “conspiracy” and “unfounded determination of winner”. Like in the previous period, the largest number of violations has been recorded at open tenders. And this is a positive factor, because clearer rules of this procedure comparing to other procurement types allow to identify more violations.

Table 11. Tenderers losing 50 or more lots under open tender procedure without submitting a single winning offer

Tenderer	Number of price offers	Amount of offers (UAH)
Tsentrnaftogazpostach LLC	541	437 365 982
Nebozvid LLC	114	13 487 988
Calvin LLC	80	49 319 607
Papirkantztorg LLC	65	38 754 334
Ardenia PE	64	2 754 165
Ihor Yuriyovych Shostov Sole Proprietorship	62	15 870 723
Serhii Oleksandrovych Bolotnikov Sole Proprietorship	62	32 569 326
Gravita Limited Liability Company	60	46 269 268
Maryna Serhiivna Yemets Sole Proprietorship	56	69 487 820
Tech-Dealer-Max LLC	53	72 979 308

Let's take a look at the tenderers who submitted more than 20 offers without winning any tender. There are 39 of them, whereas in the second half of 2016, there were only 5 participants of that kind (see: Annex 5). From that list, 10 tenderers have more than 50 unsuccessful offers (see: Table 11) worth the total of UAH 778.8 million. Particularly noteworthy is the activity of Tsentrnaftogazpostach LLC, which submitted 541 unsuccessful offers for the total of UAH 437.3 million. The subject of this tenderer's procurements is natural gas and gas fuel. Although the winners of the tenders featuring this bidder are different, this company is usually the only competitor. The average number of offers at tenders with its participation is 2.4.

There were also nine contracting authorities announcing more than 60 lots, with the number of unique tenderers at their tenders lesser than the number of lots and the average number of offers less than 2.5 (see: Annex 6). In particular, the Department of Education of Kherson City Council announced 1,092 lots attracting only 14 unique tenderers (see: Table 12). Quite predictably, the cost saving is almost nonexistent: 0.3%. The situation with the Military Medical Department of the Security Service of Ukraine is less predictable: 547 lots and 115 unique

eight successful procurement tenders with the expected value exceeding UAH 2.3 million. All procurements were made using open tender procedure. The competition rate is 4.1 offers per tender, and the percentage of cost saving is much higher than the average for this procedure: 17%.

Standing out among the negative aspects are a quite substantial percentage of disqualifications (24%) and the fact that 10 other procurement tenders announced during the aforementioned period were unsuccessful. According

Table 12. Top three 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 under open tender procedure

Tenderer	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
Department of Education of Kherson City Council	1 092	14	2 671	2	27 883 666	2,4	0.31%
Military Medical Department of the Security Service of Ukraine	547	115	1 329	32	21 671 742	2,4	21.9%
Darnytsia Wagon Repair Factory of Ukrainian Railway Public Joint-Stock Company	229	171	572	97	524 988 520	2,5	1,4%

tenderers, but the cost saving is twice as higher than the average for this procurement procedure: 21.9%. Perhaps this contracting authority has problems with determining expected value. The third case is Darnytsia Wagon Repair Factory of Ukrainian Railway Public Joint-Stock Company, whose 229 lots attracted only 171 tenderers. This contracting authority has another problem: disqualifications, reaching almost 17%. As in the first case, the cost saving indicator is predictably low: 1.4%. These three contracting authorities announced 1,868 lots with the expected value of close to UAH 574.5 million. Their tenders require more detailed analysis.

Activity of Professional Procurements SE, a new organization established to make aggregated procurements for other contracting authorities, is worth a closer look. During the first half of 2017, it announced

to commentaries by a Professional Procurements SE representative, these facts are explained by the low quality of tender offers. In addition, he believes that the market needs time to get adapted to the large volume of procurements carried out by a centralized procurement authority.

Another flaw was the fact that only office equipment and devices were procured. These tenders featured eight unique tenderers, which is a good figure for such a limited number of lots with the same subject of procurement. However, the absence of other subjects of procurement places serious limitations on the conclusions regarding the contracting authority's statistics.

Coming to the regional dimension, we have three regions with cost savings at open tenders below 9%: Transcarpathian (6.7%), Dnipropetrovsk (7.6%) and Kharkiv (7.9%) Oblasts. In the previous period, there were five such regions, and only the Kharkiv Oblast remains at the same low level (see: Diagram 1). Therefore, positive dynamics are now observed for the lowest cost saving indicators. The number of population hardly has any effect on that, because in terms of this parameter, the aforementioned regions are quite different: from 1.2 million in the Transcarpathian to over 3.2 million in the Dnipropetrovsk Oblast.²⁰

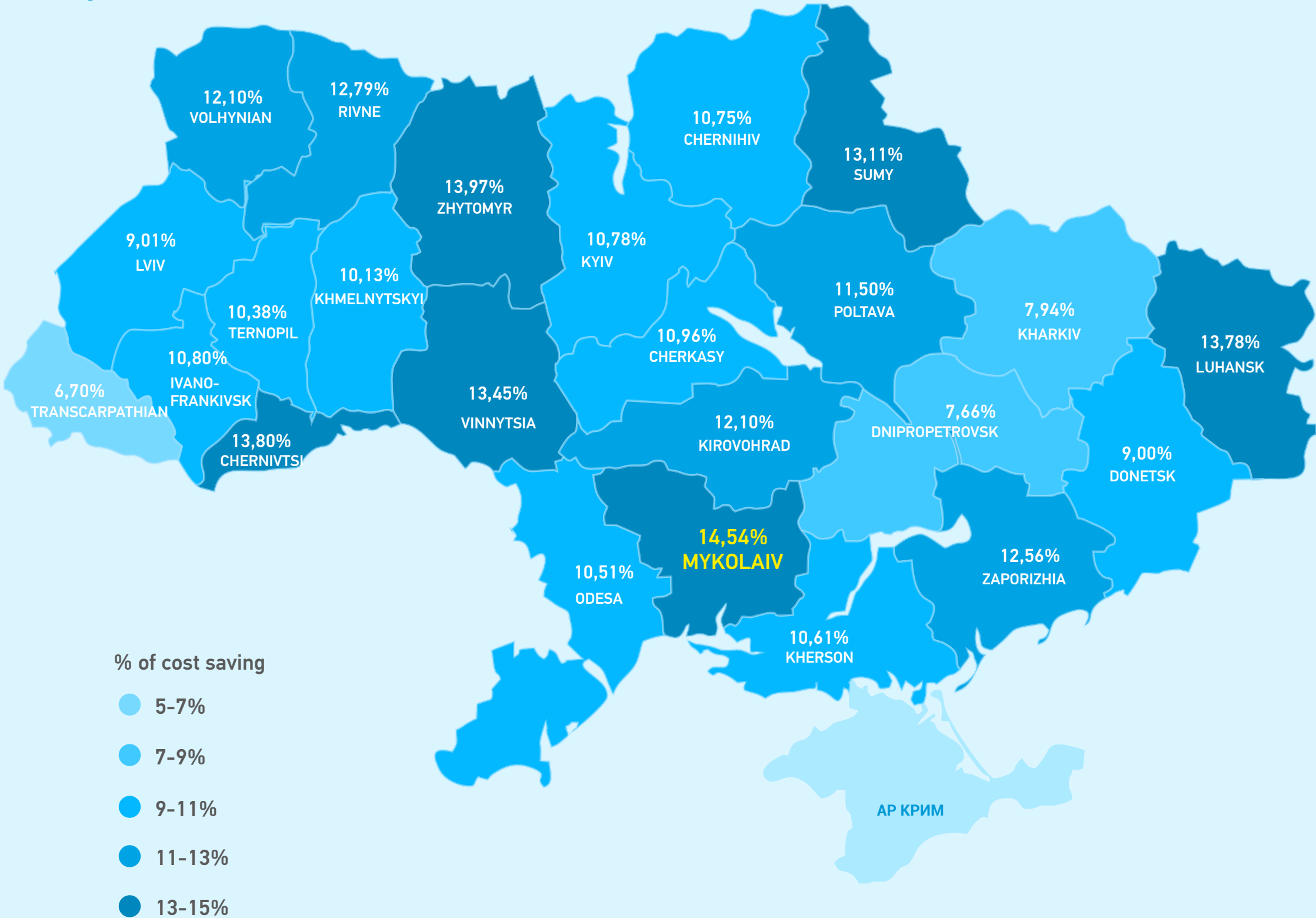
In two of these regions, the percentage of disqualified offers is higher than the national average, and only in the Transcarpathian Oblast this indicator is slightly lower (11.2%). Of these regions, however, only the Dnipropetrovsk Oblast is listed among the ones where the percentage of disqualified offers is the highest: Zaporizhian (14.8%), Poltava (15%), Kirovohrad (15.4%) and Dnipropetrovsk (15.4%) Oblast. Neither of these regions was ranked among the worst during the previous period in terms of disqualifications. It is also noticeable that the highest percentage of disqualifications has declined by almost 9%: from 24% to 15%.

As we can see, the list of the most problematic regions in terms of the cost saving and disqualification rates has changed, and only the Kharkiv Oblast remains among the worst regions in terms of cost saving. At the same time, the disqualification rate in regions with the lowest cost savings is at or above the national average. The Dnipropetrovsk Oblast distinguishes itself by the combination of problems with cost saving and disqualifications. Decrease in the number of regions with too low cost savings or extremely high disqualification rate became a positive change comparing to the end of 2016.

²⁰ Data by the State Statistics Committee ukrstat.org, population as of 1 January 2017

THE AVERAGE PERCENTAGE OF COST SAVING BY REGION FOR OPEN TENDER PROCEDURE

Diagram 1.



In terms of per capita spending, there are significant differences between regions. The Kyiv Oblast has the highest result (UAH 5,087), while the Luhansk Oblast has the lowest (UAH 167). Interestingly enough, these two regions were among the most and the least active in the previous period as well: their indicators were UAH 2,784 and UAH 103, respectively. The indicator of the former region can be explained by the location of the capital, which predictably procures more than other regions, whereas the indicator of the latter one became the consequence of anti-terrorist operation areas existing in that region. Besides the Luhansk Oblast, the least active contracting authorities are located in the Volhynian (UAH 280) and Ternopil (UAH 307) Oblasts, which had low indicators in the previous period as well. Overall, the differences between regions in terms of per capita spending remain significant. The average spending indicator has increased from 581 to 768 hryvnias, mirroring the general growth in the volume of procurements in the first half of 2017. The phenomenon of ultra-high spending in the Kirovohrad Oblast (TI Ukraine, 2017c, p. 42) is not present anymore. Most likely, the data for this region for the second half of 2016 contained errors made by contracting authorities when entering contract amounts. The Luhansk, Volhynian and Ternopil Oblasts remain the least active regions in terms of per capita spending.

Overall, the use of open tender procedure is on the rise, in terms of both the number and the value of procurements. The competitiveness is quite low: 2.7 offers per tender, but thankfully without negative monthly trend, while cost saving remains relatively stable: 10.4%. A declining percentage of disqualifications is a positive change. However, the actively growing use of this procedure is accompanied by the increasing number of instances requiring analysis for possible violations. We have identified 39 tenderers and 9 contracting authorities having problems with effectiveness while using this procedure. The most vivid examples are Tsentrnaftogaz-postach LLC, which submitted 541 unsuccessful offers for the total of UAH 437.3 million, and the Department of Education of Kherson City Council, which procured 1,092 lots featuring only 14 unique tenderers and receiving only 0.3% in cost savings.

On the other hand, the newly-established Professional Procurements SE proved itself quite efficient: the competition rate at its tenders exceeds 4 offers per tender and the percentage of cost saving is 17%. At the same time, almost one-quarter of offers have been disqualified, and more unsuccessful procurements have been announced than successful ones. In the opinion of a Professional Procurements SE representative, these statistics prove the low quality of tender offers and the fact that

businesses need time to get adapted to the large volume of their procurements. In addition, diversification of subjects of procurements seems necessary to confirm successful performance of this contracting authority.

The cost saving and disqualification indicators for various regions have somewhat leveled out comparing to the end of 2016. The Kharkiv Oblast remains a problematic region in terms of cost saving: 7.9%. On the other hand, the Dnipropetrovsk Oblast had problems with both these indicators in the first half of 2017: 7.6% and 15.4%, respectively. The disparity between regions in terms of per capita spending is substantial, and the least active regions remained the same: the Luhansk, Volhynian and Ternopil Oblasts (close to UAH 300 per person). On the other hand, as the phenomenon of high spending in the Kirovohrad Oblast did not prove itself, the Kyiv Oblast predictably became the leader in terms of this indicator.

3.6. Sub-threshold procurements

The use of sub-threshold procurement tenders remains almost the same as in the second half of 2016 in terms of the number of lots: 92,601 versus 90,988, whereas their expected value has increased by one-third: from 10.3 to 15.4 billion UAH. Sub-threshold procurement tenders continue to attract the largest number of unique tenderers, almost 23 thousand, who submitted over 200 thousand offers. 8.6% of these offers have been rejected, and this indicator almost did not change comparing to the previous period. Although slightly declining, the cost saving indicator (13.3%) remains the best among all procurement procedures. Typical violations committed at sub-threshold procurement tenders include

“discriminatory requirements”, “unfounded disqualification” and “unfounded determination of winners”. As we can see, the use of sub-threshold tenders is growing at a much slower pace than the use of open tenders. In terms of the number of unique tenderers and percentage of cost saving, this procurement procedure remains the leader. The percentage of disqualified offers remains at the level of the previous period.

Risk indicators for sub-threshold procurement tenders have been relatively stable comparing to the second half of 2016 (see: Table 13). 78.7% of sub-threshold procurement tenders have problems with competitive activity. The main reason for that was the low number of unique price offers (55.8%), whereas other factors, such as low cost saving (30.4%) and the minimum number of suppliers (27%), had much lower impact on the competition indicator. As before, the quality of tender announcements remains low due to insufficient clarification period: 33.9% of procurement tenders were problematic.²¹ The reason for that is the shortened timeframe of this procurement procedure; in particular, it is the only one containing a substantial percentage of unanswered questions: 2,633 questions, or 15.6% of all questions from tenderers. Next comes unclear description of the subject of procurement, typical for 9.3% of tenders. The procurement procedure non-transparency indicator is the only one showing signs of certain improvement. The reason for that is the 5% decline in the percentage of tenders with untimely disclosed contracts. Therefore, given the absence of legislative regulation, the risks in sub-threshold procurement tenders remain stable.

Table 13. Risk indicators for sub-threshold procurement tenders in the second half of 2016 and the first half of 2017

Risk indicator	First half of 2017	Second half of 2016
Low announcement quality	50,9%	53,7%
Low competitive activity	78,7%	78,5%
Non-transparency of procedure	32,4%	37,4%

²¹ A procurement is assigned the status of problematic based on the risk indicator, if at least one of the parameters of this indicator is problematic.

CASE 7. Coverage of the Deaflympic Games: among the close ones only

DESCRIPTION OF PROBLEM: Invasport Ukrainian Center for Physical Education and Sport of the Disabled SE held an open tender on media coverage of the XXIII Summer Deaflympic Games*. The value of procurement from NKSIU Business Center exceeded UAH 2.8 million. After conclusion of tender, a feedback was received on DOZORRO regarding the contracting authority's discriminatory requirements. Thus, 3 out of 5 tenderers who previously did not provide media coverage of the Deaflympic Games have been disqualified after the tender. The difference between the winning and the cheapest rejected offers was almost UAH 1.5 million. Moreover, an analysis of the contracting authority's and the tender winner's owners by TI Ukraine legal advisors proved their relation (Lakhtionov, 2017c).

Interestingly enough, Invasport Ukrainian Center for Physical Education and Sport of the Disabled SE has completed only four tenders during the half-year. The coverage of the Deaflympic Games amounts to over 1/3 of the value of all contracts made by this contracting authority.

* Deaflympic Games: the highest-level sporting competition for deaf athletes.

EXAMPLES OF TENDERS: UA-2017-04-11-000123-b.

From the viewpoint of possible avoidance of open tenders, there are 192 tender organizers for whom the average expected value of lots falls within the range of 185 to 200 thousand UAH. Of them, there are 68 cases with lots valued at UAH 199,000 or more (see: Annex 7), with the total expected value of lots amounting to almost UAH 18 million. In the previous monitoring period, there were 71 such contracting authorities with the expected value of lots of UAH 13.5 million. Therefore, the number of possible violations is hardly declining.

These procurements require further analysis. In particular, an example of false alarm is procurements by the City Municipal Maternity Hospital No 1. In the case of this contracting authority, the average procurement value of UAH 199,198 is a coincidence, because it has bought 7 lots, all with different subject of procurement and value ranging from UAH 976,383 for major renovation works²² to UAH 67,000 for medical oxygen.²³ This sub-threshold procurement attracted 16 unique tenderers, and cost saving amounted to almost 12.5%. On the other hand, the Department of Education of

cost saving indicator for these procurement tenders is very low: 0.33%. This instance may become the subject of public scrutiny, because controlling authorities have almost no means of dealing with situations like this at sub-threshold procurement tenders.

Overall, sub-threshold procurements remain a problematic tender procedure from the standpoint of transparency. Its high cost savings (13.3%) are achieved due to the large number of cheap lots attracting many potential suppliers, whereas legislative regulation is insufficient. The main risk is the low number of unique price offers, found in 55.8% of tenders. The clarification period remains insufficiently short (33.9%), and the large percentage of unanswered questions (15.6%) proves that. Certain improvement is observed only in the timeliness of contract disclosure, but one-third of procurements continue to have problems with this indicator. As far as possible violations are concerned, we have identified 192 organizers, whose procurements should be checked for the avoidance of open tenders. Analysis of documents in every separate instance allows to identify possible

 CASE 8. When law is not an obstacle

 **DESCRIPTION OF PROBLEM:** National Hotel Complex SE of the Department of Affairs of the Apparatus of the Verkhovna Rada of Ukraine has distinguished itself by ignoring the open tender procedure. Thus, it made eight procurements worth from UAH 200,000 to 450,000 each using sub-threshold procurement procedure, while with the value of lots like that, contracting authorities are required to hold open tenders (Lakhtionov, 2017g). At these lots, they bought foodstuffs and detergents with the total expected value exceeding UAH 2.3 million.

This contracting authority did not hold a single open tender during the half-year, having procured 19 lots at sub-threshold tenders and another 39 lots using the contract reporting procedure. TI Ukraine reported this unlawful behavior to the controlling authorities concerned.

 **EXAMPLES OF TENDERS:** UA-2017-04-13-000896-c, UA-2017-04-13-000385-c, UA-2017-04-11-002230-b.

Vilshanka Raion State Administration made three procurements of foodstuffs from O.V. Savchenko Sole Proprietorship, each worth about UAH 199,000.²⁴ Only one of these tenders has been attended by another tenderer, Sole Proprietor S.V. Savchenko, who apparently is a related person of the former.²⁵ Predictably, the total

violations, an example of which is three foodstuffs procurements worth close to UAH 199,000 each, made by the Department of Education of Vilshanka Raion State Administration from O.V. Savchenko Sole Proprietorship.

3.7. Competitive dialogue

The competitive dialogue procedure was integrated into ProZorro the last among all procedures provided by the Law. It is used in exceptional cases, when a contracting authority is unable to determine the necessary technical and qualitative characteristics (specifications) of works or type of service, and negotiations with tenderers are necessary to make an optimal procurement decision. As a rule, the subject of procurement involves complex technical work, services, etc.

Competitive dialogue has two phases: at first, 30 days are given to submit offers without price; after that, negotiations are held with all tenderers whose offers weren't turned down and whose number must be at least three, and then, they have 15 days to submit price offers before a finalized announcement is made. The contracting authority may hold negotiations without opening these offers. Publication of an English-language tender announcement is envisaged for procurements with high expected value. Presently, ProZorro's analytics modules do not have this procedure. As we can see, identification of violations during competitive dialogue is quite difficult because of specifics of the subject of procurement and larger scope of the contracting authority's rights. Also, the possibility of analyzing this procedure is limited due to its unavailability in analytics modules at the time of writing this report.

During the first half of 2017, eight 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 254.5 million, half of which was spent on the procurement of construction works for Chornobyl Nuclear Power Station's radiation control system.²⁶ Cost savings on these nine procurement tenders were only 1.3%. Nevertheless, such a low indicator can be explained by the fact that expected value was set by way of negotiation with potential suppliers and by the complexity of the subjects of procurement. No violations of this procedure have been recorded.

²² Tender webpage: prozorro.gov.ua/tender/UA-2017-03-29-001859-b

²³ Tender webpage: prozorro.gov.ua/tender/UA-2017-01-13-000654-a

²⁴ Tender webpage: prozorro.gov.ua/tender/UA-2017-04-13-000444-a

²⁵ Tender webpage: prozorro.gov.ua/tender/UA-2016-12-29-000086-a

²⁶ Tender webpage: prozorro.gov.ua/tender/UA-2017-04-06-000685-c.2



Conclusions and recommendations

This report covered changes in Ukraine's procurement system occurring during the first half of 2017. We also analyzed information regarding procurements made via ProZorro during this time, and identified problematic aspects from the standpoint of transparency of these public procurements. Based on the analysis results, we have prepared conclusions and recommendations stated below.

Our analysis was based on the public procurement monitoring methodology developed by TI Ukraine and described in our previous report. The use of this methodology allows to compare procurement analysis results for the second half of 2016 and for the first half of 2017. After presentation of the previous study, the methodology was supplemented with recommendations from experts in public procurements. Firstly, we included development of civic monitoring to the overview of changes in procurement procedures. Secondly, analysis of tenderer disqualification statistics was supplemented by analysis of the results of our online survey, where we asked contracting authorities about the reasons for disqualification of tenderers and their perception of the performance of controlling authorities. Thirdly, description of the competitive dialogue procedure at the level of key indicators was added to the section offering analysis of ProZorro data.

Regarding the changes which took place in public procurement sector during the first half of 2017, we can state that the reform has reached the stage of defending itself against discrediting attempts and gradually implementing the necessary improvements. In particular, CMU and the Parliament adhered to the Strategy of Reforming Public Procurement System by rejecting the draft law 2126a in the version envisaging dilution of the rights of contracting authorities and authorized e-platforms, and nine draft laws which proposed exceptions

from the Law. In addition, the draft law 4738-d was prepared, setting out the procedure of monitoring procurements by controlling authorities using automatic risk indicators. Presently, the passage of this draft law and beginning of use of risk indicators by SASU is the matter of critical importance.

Moreover, Professional Procurements SE, an institution established to aggregate demand of contracting authorities and reduce administrative burden on suppliers, made its first procurements. To ensure effectiveness of this institution, improvement of legislation regulating framework agreements is of critical importance. Our recommendation in this context is the adoption by CMU and MEDT of documents required by the Law.

Among other innovations, transition to definition of the subject of procurement using the 4th digit of the Unified Procurement Dictionary, which allows for easier search and comparison of products and services online, is worth noting. Another positive change was integration of ProZorro with USR, allowing contracting authorities to automatically check the tenderers' information.

A no less important event was the transfer of functions of the Commission for review of statements of possible violations in sub-threshold procurements to DOZORRO. Activists of many civic organizations and public bodies are now able to respond to complaints concerning procurements via this portal, which is capable of processing a larger number of inquiries than the Commission. Unfortunately, because of the lack of legislative regulation of sub-threshold procurements, the results of reviewing these complaints are still considered not more than recommendations for contracting authorities.

At the same time, certain expected events did not occur during the first half of 2017. Firstly, new automatic risk indicators are not available in ProZorro's analytics modules. Secondly, certain important procurement variables are still not being published, such as, for instance, contracting authority's feedback on the quality of contract performance, while AMCU decisions concerning procurement-related complaints are not available in machine-readable format. And finally, the existing legislation regulating public procurements requires integration of the best international anticorruption practices into it, such as prevention of abnormally low prices.

Let's now review the results of analysis of ProZorro's performance. During the first half of 2017, ProZorro was used to conclude almost 410 thousand lots with the expected value of UAH 242.7 billion. The number of procurement contracts has increased by 70% and their expected value more than 2.6 times comparing to the second half of 2016. 80 thousand unique enterprises and sole proprietorships participated in procurements, which is 30% more than in the previous period. Therefore, the volume of procurements and the number of tenderers have risen versus the previous period. However, the average cost saving indicator for all procurement procedures remains almost the same: 5.5%. A possible reason explaining this situation is the absence of growth in the number of sub-threshold tenders, whereas the number of direct contracts, for which the cost saving has always been zero, has substantially increased.

The percentage of contract reporting in terms of the number of completed lots has grown from 51.2% to 58.7% comparing to the second half of 2016. As before, the largest number of unique tenderers is present in contract reporting. On the other hand, the expected value of all direct contracts made during the first half of 2017 is UAH 35.5 billion, or 14.6% of the value of all procurements via ProZorro, which is 9% less than in the previous period. Therefore, although the majority of suppliers continue to work directly with public bodies, the percentage of funds spent this way has decreased. Still, almost 15% of all spending via ProZorro is a respectable indicator for a non-competitive procurement procedure.

As for contract reporting monitoring results, a search of close relationships between contracting authorities and suppliers has revealed 12 problematic cases. Almost UAH

76.4 million was spent on these procurements. A search of possible avoidance of open tenders has revealed 6,159 instances involving procurement of goods and services, and 190 instances of procurement of works, when the average lot price was close to the thresholds set by the Law. Over UAH 222 million was spent on the instances included to annexes to this report alone. An analysis of certain cases, e.g. procurement prices for renovation of interior at Odesa Academy of Law, National University, has revealed a high probability of inefficient spending of public funds as a result of avoidance of competition and overstatement of prices.

The use of another non-competitive procurement procedure, negotiation procedure has increased, both in terms of the number (by 5.4%) and in terms of the value (by 9.1%) of contracts. Of the total amount of funds spent on public procurements during the first half of 2017, negotiation procedure was responsible for one-quarter of them. This figure is very high, even considering the fact that utility services, a typical subject for this procurement, are procured at the year's beginning. In particular, more than UAH 14 billion was spent for the "Urgent procurement" reason. An example of a procurement of this category involving violation of the applicable regulations is the procurement of services for an Antarctic expedition of the National Center for Antarctic Research. In that case, the subject of procurement was competitive and the amount spent on it unjustifiably high.

Speaking about the findings of a general analysis of competitive procurement procedures, it is worth noting that the average rate of competition was somewhat lower than at the end of 2016. But unlike in the previous period, this rate didn't have the monthly decline trend. For sub-threshold procurements, where competition stays at the level of approximately 2.2 tenderers per tender, it can be explained by the relatively stable monthly number of completed lots, unique tenderers and the number of offers per tenderer. This situation may stem from the negative trend of the growing usage of contract reporting instead of holding sub-threshold procurement tenders.

In the case of open tenders, where the competition rate is 2.7, the number of unique tenderers continues to gradually increase, whereas the number of completed lots and offers per tenderer has stabilized after the March surge, and even began to slightly decrease. In that case, the probable cause is that the market is gradually catching up with ProZorro's development, as the growing number of potential suppliers proves. Still, the choice for

procurements does not become wider yet, because the same tenderer submits relatively the same number of offers every month.

As for the open tenders with English-language publication, which have the highest competition rate of 2.8, the use of the e-procurement system continues to rise: the number of completed lots and the number of unique tenderers are growing every month. However, as in the case of open tenders, the same tenderer submits relatively the same number of offers. The increase in competition is not observed yet, which requires further improvement of ProZorro for the benefit of users.

Negotiation procedure for defense procurements, where the average indicator is 2.5, is the only procurement procedure where the competition trend is negative. This procedure is characterized by insignificant use of the e-procurement system at the year's beginning, which may be explained by formation of budget for the current year of the main contracting authority, the Defense Ministry of Ukraine. The monthly number of completed lots is also growing faster than the number of unique tenderers and the number of offers per tenderer.

The percentage of disqualifications slightly increases for sub-threshold procurements, and for open tenders, remains higher than average for competitive procedures comparing to the second half of 2016. Our online survey of contracting authorities has revealed approximate reasons for this situation: non-conformance of tender offers with tender requirements and missing required documents in the tender offer package. According to contracting authorities, the main ways of improving the situation with disqualifications is the work on improving good faith in tenderers, clarifying the procurement legislation, further electrification and increasing interoperability of ProZorro.

The results of our survey also give reasons to believe that the inspection activity of controlling and law enforcement authorities and the perception of their competence by contracting authorities are low. In particular, SASU as the main controlling body in public procurement sector has the following indicators: less than half of our respondents have been inspected at least once since the launch of ProZorro, and almost one-quarter of them consider this body incompetent. It is important to emphasize that among the contracting authorities inspected by SASU at least once, the perception of its competence is not much better, ranging from 27% to 22%. Other controlling

authorities (except internal controlling bodies of contracting authorities) have even worse indicators. Our recommendation in this respect is more active and fair response to violations of procurement procedures by public institutions.

Let's take a look at indicators of particular competitive procurement procedures. The weight of negotiation procedure for defense procurements has increased, in terms of both the number and the value of contracts, comparing to the second half of 2016. At the same time, the cost saving remains the same: 3.6%. The percentage of disqualified offers stays high: 11.6%. The key change comparing to the previous period is the fact that Defense Ministry was responsible for the four-fifths of all spending under this procedure, while abnormal activity of the National Police's contracting authorities has no longer been observed. At the same time, the high rate of tenderer disqualifications and low percentage of cost saving were typical even for appropriate contracting authorities. In addition, monitoring of the subjects of procurement from the viewpoint of justifiable use of this procedure has revealed certain problems. For instance, the procurement of electric stoves by the Defense Ministry of Ukraine indicates possible unjustifiable use of this procedure.

The use of open tenders with English-language publication continues to rise, in terms of both the number of completed lots and the amount of money spent on these lots. The cost savings at these procurement tenders went up to 8.4%. On the other hand, the number of problematic procurements has increased as well. We have identified 24 potential suppliers who submitted from 10 offers up without winning a single of them, and this indicator has increased fourfold comparing to the second half of 2016. Among them, eight tenderers have submitted more than 20 unsuccessful offers each, worth the total of UAH 302.3 million. We have also identified three contracting authorities with more than 80 lots and less than 20 unique tenderers. They completed 362 lots with the expected value of almost UAH 340 million; the cost saving rate at tenders held by these contracting authorities was below the average, and for two of them, it was less than 4%. Therefore, the growing use of this procurement procedure goes hand-in-hand with the increase in the number of unsuccessful tender offers and in the volume of procurements from contracting authorities whose lots do not attract business. In particular, one of the problems was unfounded determination of winner, an example of which is the canceled procurement tender held by Kyiv Metro ME.

Confirming the trend in the previously-mentioned procurement procedure, which is a variant of the open tender procedure, the use of this procedure is on the rise, in terms of both the number and the value of procurements. The cost saving remains relatively stable: 10.4%. A declining percentage of disqualifications was a positive change. However, the actively growing use of this procedure is accompanied by the increasing number of instances requiring analysis for possible violations. We have identified 39 tenderers and 9 contracting authorities having problems with effectiveness while using this procedure. A vivid example is the Department of Education of Kherson City Council, which procured 1,092 lots featuring only 14 unique tenderers and receiving only 0.3% in cost savings.

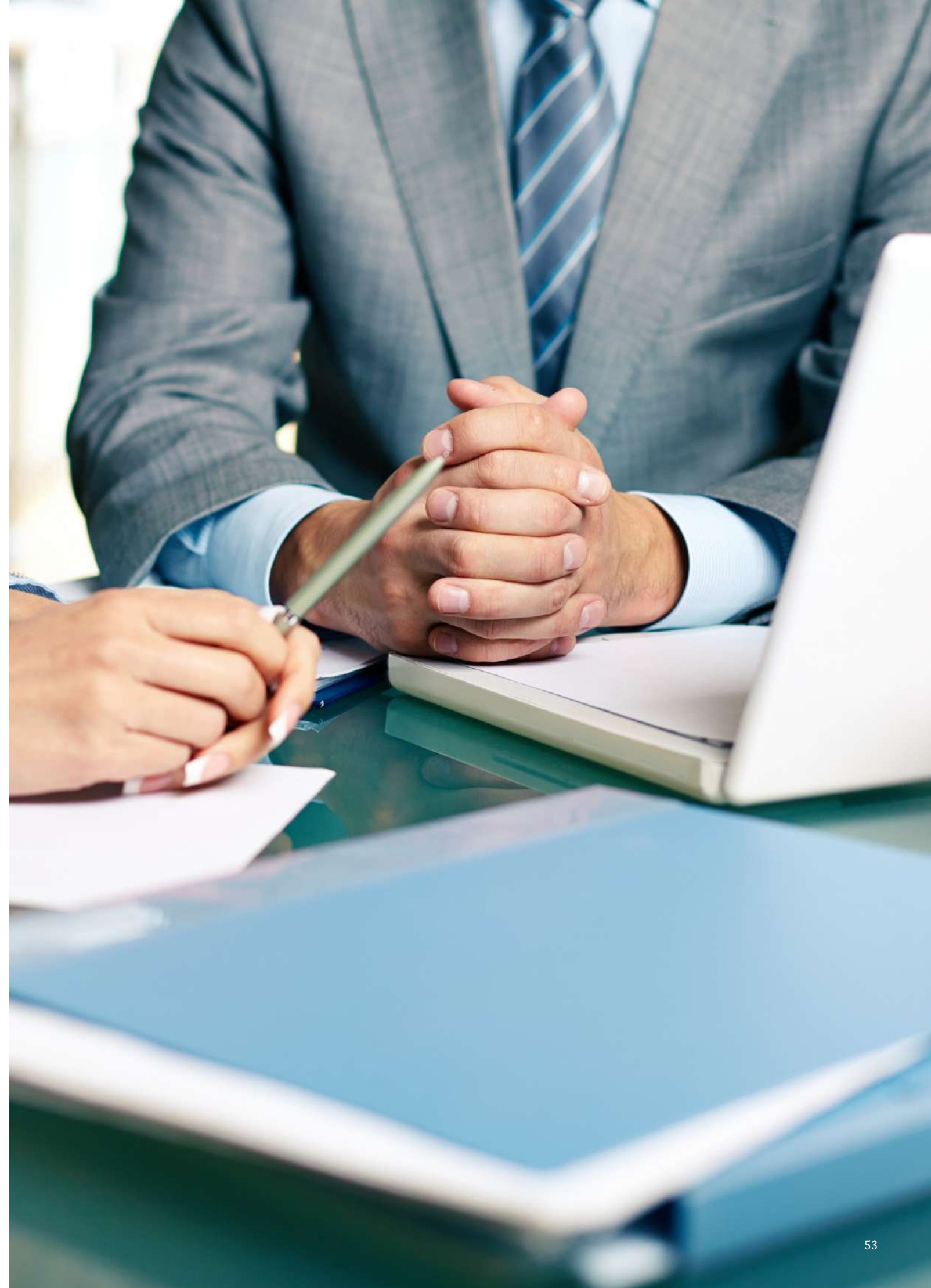
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The cost saving and disqualification indicators of open tenders for various regions have somewhat leveled out comparing to the end of 2016. The Kharkiv Oblast remains a problematic region in terms of cost saving: 7.9%. On the other hand, the Dnipropetrovsk Oblast fell behind in terms of both these indicators in the first half of 2017: 7.6% and 15.4%, respectively. The disparity between regions in terms of per capita spending is still substantial, and the least active regions remained the same: the Luhansk, Volhynian and Ternopil Oblasts (close to UAH 300 per person). On the other hand, as the phenomenon of high spending in the Kirovohrad Oblast did not prove itself, the Kyiv Oblast predictably became the leader in terms of this indicator.

Sub-threshold procurements remain the most problematic tender procedure from the standpoint of transparency. Its high cost savings (13.3%) were achieved, like at the end of 2016, due to the large number of cheap lots, whereas legislative regulation did not improve. The main risk is the low number of unique price

offers, found in 55.8% of procurement tenders. The clarification period remains insufficiently short (33.9%), and the large percentage of unanswered questions (15.6%) proves that. Certain improvement was observed only in the timeliness of contract disclosure, but one-third of procurements continue to have problems with this indicator. As far as possible violations are concerned, we have identified 192 organizers, whose procurements should be checked for the avoidance of open tenders. An example of that is three foodstuffs procurements worth close to UAH 199,000 each, made by the Department of Education of Vilshanka Raion State Administration from O.V.Savchenko Sole Proprietorship.

Concluding with the competitive dialogue procedure which was integrated into ProZorro in the first half of 2017, it is worth noting that during this period, eight regular procurement tenders and one tender with English-language publication have been successfully concluded using this procedure. The total expected value of these tenders was UAH 254.5 million. Cost savings on these nine procurement tenders were only 1.3%. Nevertheless, such a low indicator can be explained by the fact that expected value was set by way of negotiation with potential suppliers and by the complexity of the subjects of procurement. The largest procurement in terms of value was the procurement of construction works for Chornobyl Nuclear Power Station's radiation control system.



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ANNEX 1

«Опитування щодо проблем, які виникають під час здійснення публічних закупівель»

Просимо Вас взяти участь в короткому опитуванні, основною метою якого є виявлення ключових проблем, які виникають у замовників під час здійснення публічних закупівель. Опитування є анонімним. Відповіді будуть опрацьовані лише в узагальненому вигляді.

Організацію якого типу Ви представляєте?

- ☐ Комунальне підприємство
- ☐ Державне підприємство
- ☐ Виконавчий орган
- ☐ Other...

За рахунок яких коштів Ваша організація здійснює закупівлі?

- ☐ Державний бюджет
- ☐ Місцевий бюджет
- ☐ Кошти підприємства
- ☐ Other...

Скільки закупівель протягом року в середньому оголошується Вашою організацією?

- ☐ 1-10
- ☐ 10-20
- ☐ 20-50
- ☐ 50 і більше
- ☐ Жодної

Як давно Ви особисто працюєте у сфері закупівель?

- ☐ Менше 1 року
- ☐ 1-2 роки
- ☐ 3-5 років
- ☐ 5 років та більше
- ☐ Other...

Чи є у Вас потреба у проходженні навчання у закупівлях для Вас?

- ☐ Ні, я давно працюю в закупівлях
- ☐ Ні, хоча мій досвід у закупівлях не є великим, потреби у навчанні немає
- ☐ Так, маю потребу в додатковому навчанні

Чи використовуєте Ви конкурентні допорогові закупівлі?

- ☐ Так
- ☐ Ні

Чи вважаєте Ви доцільним проведення конкурентних допорогових закупівель?

- ☐ Так
- ☐ Ні

Annexes

З якими проблемами Ваша організація стикалася при здійсненні закупівель? (оберіть, будь ласка, усі можливі відповіді)

- ☐ Брак кадрового ресурсу чи кваліфікації для підготовки тендерної документації
- ☐ Складність роботи в електронній системі закупівель
- ☐ Відсутність учасників/недостатня кількість учасників тендеру
- ☐ Технічні проблеми функціонування електронної системи закупівель
- ☐ Штучне затягування тривалості тендеру через оскарження в АМКУ
- ☐ Неякісне/несвоєчасне виконання умов Договору переможцем торгів
- ☐ Невідповідність термінів проведення закупівлі, встановлених законом, до потреб організації
- ☐ Недоброчесна поведінка учасників закупівлі
- ☐ НІЧОГО З ПЕРЕЛІЧЕНОГО
- ☐ Other...

Які найпоширеніші причини дискваліфікацій учасників тендерів Ви застосовуєте?

- ☐ Негативний досвід роботи з даним учасником в минулому
- ☐ Більша довіра до постачальника, який дав вищу цінову пропозицію
- ☐ Наявність не усіх документів у складі тендерної пропозиції учасника
- ☐ Невідповідність документів у складі тендерної пропозиції учасника вимогам документації
- ☐ Подання пропозиції з порушенням строків
- ☐ Невідповідність пропозиції учасника технічним характеристикам ТД
- ☐ Сумнів щодо виконання умов договору у зв'язку з заниженими цінами
- ☐ Other...

Яким чином, на Вашу думку, можна знизити рівень дискваліфікацій на конкурентних торгах?

Short-answer text

Чи були у Вас проблеми при виконанні договору?

- ☐ Так, неякісна поставка/виконання
- ☐ Так, поставка/виконання з порушенням строків
- ☐ Так, проблеми з документообігом
- ☐ Так, вимагали підвищити ціну після підписання договору
- ☐ Ні, не було
- ☐ Other...

Чи вимагаєте Ви забезпечення виконання договору?

- ☐ Так
- ☐ Ні
- ☐ Не обізнаний/а з механізмом застосування

Annexes

Як часто наступні контролюючі/правоохоронні органи здійснювали перевірку/моніторинг Ваших закупівель з моменту запуску системи?
(Одна відповідь по кожному рядку)

	1-2 раз на рік	3-5 рази на рік	6-9 рази на рік	більше 10 разів на рік	Жодного разу
Державна аудиторська служба	☐	☐	☐	☐	☐
Національна поліція	☐	☐	☐	☐	☐
Органи прокуратури	☐	☐	☐	☐	☐
Рахункова палата	☐	☐	☐	☐	☐
Служба безпеки України	☐	☐	☐	☐	☐
Національне антикорупційне бюро	☐	☐	☐	☐	☐
Керівна організація замовника	☐	☐	☐	☐	☐
Внутрішня аудиторська служба (у разі наявності)	☐	☐	☐	☐	☐

Оцініть компетентність наступних контролюючих/правоохоронних органів у сфері публічних закупівель (Одна відповідь по кожному рядку)

	1	2	3	4	5
Державна аудиторська служба	☐	☐	☐	☐	☐
Національна поліція	☐	☐	☐	☐	☐
Органи прокуратури	☐	☐	☐	☐	☐
Рахункова палата	☐	☐	☐	☐	☐
Служба безпеки України	☐	☐	☐	☐	☐
Національне антикорупційне бюро	☐	☐	☐	☐	☐
Керівна організація замовника	☐	☐	☐	☐	☐
Внутрішня аудиторська служба (у разі наявності)	☐	☐	☐	☐	☐

Чи проходила Ваша установа планову перевірку контролюючого органу у цьому році?

- ☐ Так, порушень у закупівлях не виявлено
- ☐ Так, порушення у закупівлях були, однак незначні
- ☐ Так, однак закупівлі не перевіряли
- ☐ Ні, не проходила

Чи за результатами перевірок було складено протокол про адмінправопорушення?

- ☐ Так, суд спростував позицію контролера
- ☐ Так, суд зобов'язав сплатити штраф
- ☐ Ні
- ☐ Перевірок не було

Annexes

ANNEX 2

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

Замовник	Постачальник	К-сть лотів	Частка участі	Очікувана вартість (грн)	Частка участі
Департамент інфраструктури та благоустрою Запорізької міської ради	Комунальне підприємство електромереж зовнішнього освітлення «Запоріжміськсвітло»	115	88%	22 435 957	88%
ПАТ «Чернігівобленерго»	ТОВ «Інвестиційна рада»	93	30%	17 690 874	19%
Головне управління житлово-комунального господарств виконавчого комітету Бориспільської міської ради	КП «Житлове ремонтно-експлуатаційне управління»	57	31%	10 898 878	27%
ПАТ «Укрпошта»	ТОВ «Епіцентр К»	38	79%	7 310 000	85%
ПАТ «ЕК «Житомиробленерго»	ДП «Вінницька Мехколона «ПРАТ «Київсільелектро»	36	7%	7 027 439	4%
Здорівська сільська рада	ТОВ «БК «Будівельний альянс»	29	66%	5 369 898	73%
Управління житлово-комунального господарства Ізмаїльської міської ради	ПП «Придунайдорстрой»	25	10%	4 732 726	5%
Відділ капітального будівництва Миргородської міської ради	ПрАТ «Миргородський агрошляхбуд»	24	71%	4 504 832	74%
Управління поліції охорони в Чернігівській області	ТОВ «ОПТА ЛТД»	24	56%	4 776 000	58%

Замовник	Постачальник	К-сть лотів	Частка участі	Очікувана вартість (грн)	Частка участі
Болградська міська рада	ФОП Сіміліді О. Д.	19	33%	3 557 650	74%
Державне підприємство «Селидіввугілля»	ТОВ «Шеренторг»	19	6%	3 529 690	7%
Департамент інфраструктури Харківської міської ради	ФОП Щербіна Алла Володимирівна	18	47%	3 377 754	37%
Служба автомобільних доріг у Дніпропетровській області	Дніпропетровська філія державного підприємства українського державного інституту з проектування об'єктів дорожнього господарства «Укрдіпродор»-«Дніпродіпродор»	16	67%	3 025 503	71%
Управління житлово-комунального господарства, архітектури та містобудування Олександрійської міської ради	ФОП Склярова Л.Л.	16	34%	3 081 991	41%
Департамент житлово-комунального господарства та будівництва Дніпропетровської обласної державної адміністрації	ПП «Прогрес»	16	16%	3 140 374	15%
Управління поліції охорони в Дніпропетровській області	ТОВ «ТМ «Автомодус»	15	68%	2 850 000	72%
ДП «Первомайськвугілля»	ТОВ «Доненергоекспорт»	15	56%	2 858 694	53%

Annexes

Замовник	Постачальник	К-сть лотів	Частка участі	Очікувана вартість (грн)	Частка участі
Нововодолазька селищна рада	ФОП Кісленко Сергій Григорович	15	37%	2 845 945	41%
Виконавчий комітет Новоолександрівської сільської ради	ТОВ «Алекс-девелопмент»	15	21%	2 997 458	25%
КП «АТП-2528» Чернігівської міської ради	ПП «ТТ-Нафта»	15	13%	2 793 314	46%
Управління з питань охорони об’єктів культурної спадщини Одеської міської ради	ТОВ «НВЦ "Екострой»	14	70%	2 775 013	75%
Управління житлово-комунального господарства Ізмаїльської міської ради	ТОВ «Вектор-ІС»	14	6%	2 764 000	3%
ДВНЗ «Національний медичний університет імені О.О. Богомольця»	ТОВ «ВБК Воля»	14	5%	2 799 660	12%
Комунальне підприємство спеціалізоване підприємство по ремонту і будівництву автошляхів м. Харкова «Шляхрембуд»	ТОВ «Виробниче підприємство Промодяг»	13	26%	2 555 900	29%
КП «Міжнародний аеропорт Одеса»	ТОВ МА «Одеса»	13	9%	2 562 100	5%
Департамент міського господарства Одеської міської ради	ТОВ «Реммсервіс»	13	3%	2 534 127	2%
Департамент капітального будівництва	Подільський проектний інститут	12	33%	2 317 985	23%

Замовник	Постачальник	К-сть лотів	Частка участі	Очікувана вартість (грн)	Частка участі
Головне управління Державної міграційної служби України в Одеській області	СПД ФОП Іваніщев Павло Васильович	12	7%	2 223 519	29%
Гоголівська селищна рада	ПрАТ «Миргородський агрошляхбуд»	11	92%	2 085 244	96%
Управління житлово-комунального господарства виконавчого комітету Золотоніської міської ради	ПрАТ «Золотоношарембуд»	11	50%	2 158 487	68%
Управління адміністративними будинками Державного управління справами	ТОВ «Квартет Інжиніринг»	11	8%	2 067 121	18%
ДП «Гайсинське лісове господарство»	ТзОВ «Альянс Еволюшн»	10	38%	1 949 521	49%
Управління поліції охорони в Запорізькій області	ТОВ «Трейдзапчастина»	10	26%	1 938 000	29%
Відділ освіти Тисменицької районної державної адміністрації	ТзОВ «Екоспецбуд»	10	11%	1 930 030	19%
Виконавчий комітет Солонянської селищної ради	ФОП Орищенко Л.Г.	10	6%	1 861 649	25%
Виконавчий комітет Орадівської сільської ради	ТОВ «Спецстрой 2013»	9	90%	1 796 042	90%
Національний юридичний університет імені Ярослава Мудрого	ТОВ «Інвестиційна компанія «Харківінвест»	9	16%	1 779 987	17%

Annexes

Замовник	Постачальник	К-сть лотів	Частка участі	Очікувана вартість (грн)	Частка участі
Управління житлово-комунального господарства виконавчого комітету Кременчуцької міської ради	Комунальне підприємство «Міськсвітло»	9	16%	1 765 990	11%
Департамент інфраструктури міста Сумської міської ради	ФОП Кривич Г. М.	9	5%	1 695 545	4%
Новоайдарська селищна рада	Лисичанський Шляхрембуд	8	38%	1 498 936	56%
Управління поліції охорони в Запорізькій області	ТОВ «Свіком»	8	21%	1 592 000	23%
КП Комунгосп ДМР	ТзОВ «ІФБУД-ПРИКАРПАТТЯ»	8	15%	1 484 888	14%
Відділ освіти Мирноградської міської ради	ФОП Сорока Ю. В.	8	14%	1 498 100	17%
Управління поліції охорони в Тернопільській області	ПП «Компанія «Наdejда»	8	11%	1 574 300	24%
Відділ освіти Золотоніської районної державної адміністрації	ФОП Головченко І.В.	8	10%	1 524 416	17%
Управління капітального будівництва та перспективного розвитку міста Краматорської міської ради	ТОВ «Проектна компанія АРКОН»	8	6%	1 498 951	6%
ПАТ «Миколаївобленерго»	ТОВ «Компанія Укрінтек»	8	4%	1 567 290	2%

Замовник	Постачальник	К-сть лотів	Частка участі	Очікувана вартість (грн)	Частка участі
Управління житлово-комунального господарства, благоустрою та екології Тернопільської міської ради	ТОВ «Газ-Пласт-Буд»	8	4%	1 529 882	2%
ДП «Селидіввугілля»	ФОП Качейшвілі Г. Ю.	8	3%	1 596 000	3%
Тисменицька районна державна адміністрація	ТзОВ «Автомагістраль-ІФ»	7	64%	1 332 732	77%
Відділ освіти Кегичівської районної державної адміністрації	ФОП Безрук Г. П.	7	58%	1 376 000	65%
Дударківська сільська рада	ФОП Троцюк М. С.	7	58%	1 397 766	63%
Виконавчий комітет Бродівської міської ради	ПП «НАРА»	7	44%	1 395 604	53%
КП «Управління освіти Тячівської районної державної адміністрації»	ФОП Раковці О. Ю.	7	41%	1 399 548	48%
ДП ДГЗП «Спецтехноекспорт»	ПАТ «УНІКА»	7	33%	1 380 485	47%
Управління поліції охорони в Житомирській області	ТзОВ «Макс Трейд»	7	30%	1 327 000	64%
КЗ Київської обласної ради «Обласне психіатрично-наркологічне медичне об'єднання»	ТОВ «ФРАМ КО»	7	23%	1 299 554	26%
Золочівська міська рада Львівської області	ПП «Золочівстарбуд»	7	22%	1 364 762	23%

Annexes

Замовник	Постачальник	К-сть лотів	Частка участі	Очікувана вартість (грн)	Частка участі
Управління поліції охорони в Запорізькій області	ПП «Компанія «Наdejда»	7	18%	1 396 500	21%
КП «Керуюча компанія з обслуговування житлового фонду Печерського району м. Києва»	ТОВ «Девіком»	7	14%	1 349 700	18%
ДП «Торецьквугілля»	ТОВ «Транс Трейд ЛТД»	7	13%	1 399 300	17%
Комунальна установа «Центр фінансування та господарської діяльності закладів та установ системи освіти Малиновського району м. Одеси»	ПП «Олімпія Сервіс»	7	10%	1 299 400	11%
Управління поліції охорони в Тернопільській області	ТОВ «ІЦ Охоронні Системи»	7	10%	1 399 300	21%
КП «Міське управління житлово-комунального господарства» Чорноморської міської ради Одеської області	ТОВ «Рідне Місто»	7	7%	1 393 000	5%
Відділ освіти Києво-Святошинської районної державної адміністрації	ТОВ «Капітель-Е»	7	6%	1 355 167	6%
Золотоніська центральна районна лікарня	ПП «БК Мастер Строй»	7	4%	1 356 446	12%
Розсошанська сільська рада	ПрАТ «Хмельницьке БМУ № 69»	7	3%	1 335 163	10%
ДП «Мирноградвугілля»	ТОВ «Докс»	7	3%	1 299 176	3%

Замовник	Постачальник	К-сть лотів	Частка участі	Очікувана вартість (грн)	Частка участі
Курманівська сільська рада	ФОП Сідорова Н. І.	6	86%	1 196 366	98%
КП «Житлово - комунальний сервіс «Північний»	ФОП Шевчук С. М.	6	46%	1 168 627	47%
Комунальний заклад «Ширяївський районний центр первинної медико-санітарної допомоги»	ТОВ «САНАФАРМ»	6	43%	1 176 000	72%
КП «Любомльське ЖКГ»	ПАТ «Ковельське ШБУ-63»	6	43%	1 163 243	52%
Ромоданівська селищна рада	ТОВ «ФЛІНТОК»	6	43%	1 189 910	34%
Орган місцевого самоврядування «Відділ капітального будівництва та інвестицій Червоноградської міської ради»	ТзОВ «Компанія «Вілком»	6	40%	1 164 217	29%
Княжицька сільська рада	ТОВ «Автобанн»	6	32%	1 198 836	47%
Департамент житлово - комунального господарства Херсонської міської ради	ПРАТ «Херсонліфт»	6	30%	1 185 638	28%
Гадяцька районна рада Полтавської області	ТОВ «Гадячшляхбуд»	6	26%	1 198 500	28%
Солоницівська селищна рада	ТОВ «Екобудшлях»	6	20%	1 158 441	21%
Краковецька селищна рада	ПП «Будівельна компанія «Дортранс»	6	17%	1 199 065	18%

Annexes

Замовник	Постачальник	К-сть лотів	Частка участі	Очікувана вартість (грн)	Частка участі
Департамент міського господарства Дрогобицької міської ради	ПП «Дрогобич Шляхрембуд»	6	16%	1 152 420	25%
Управління поліції охорони у Львівській області	ПП «Автоцентр «ЕРА»	6	15%	1 179 000	20%
Виконавчий комітет Хустської міської ради	ТОВ «Укршляхбуд»	6	12%	1 123 500	7%
Департамент інфраструктури міського господарства Южноукраїнської міської ради	КП «Житлово-експлуатаційне об`єднання»	6	12%	1 151 721	13%
Остерська квартирно-експлуатаційна частина району	ТОВ «Будівельна компанія Бастіон-Буд»	6	12%	1 146 319	17%
Черкасько-Лозівська сільська рада	ТОВ «Фірма «Колорит-строй»	6	7%	1 198 207	13%
КП «Управління міського господарства»	ФОП Соловйова Т. В.	6	7%	1 197 438	13%
Виконавчий комітет Олешківської міської ради	КП «Олешки-сервіс» Олешківської міської ради	6	5%	1 120 123	7%
Новопсковська селищна рада	Новопсковблагоустрій	6	5%	1 153 500	8%
Управління капітального будівництва та перспективного розвитку міста Краматорської міської ради	ТОВ «Оптіма Бізнес Груп»	6	5%	1 169 760	5%
Національний Університет «Одеська юридична академія»	ФОП Павлівський Р. О.	6	4%	1 194 111	6%

Замовник	Постачальник	К-сть лотів	Частка участі	Очікувана вартість (грн)	Частка участі
Управління освіти і науки	ТОВ «Міталл Інком»	6	3%	1 184 310	4%
КП «Тернопільміськтепло-комуненерго»	ТОВ «Сахара»	6	3%	1 190 900	7%
Головне управління житлово-комунального господарств виконавчого комітету Бориспільської міської ради	ТОВ «Будінжсервіс»	6	3%	1 113 000	3%
ДП «Мирноградвугілля»	ТОВ «Д-Карбо»	6	2%	1 126 070	2%
ДП «Берегометське лісомисливське господарство»	ПП Терновецька О. Д.	6	2%	1 168 718	2%
ПАТ «Турбоатом»	ТОВ «Торговий будинок «Домен»	6	2%	1 187 502	0%
КП «Харківводоканал»	ФОП Скоробітченко В. І.	6	1%	1 187 115	2%
Різуненківська сільська рада	ТОВ «ЕКОБУДШЛЯХ»	5	100%	999 496	100%
Андріївська селищна рада Балаклійського району Харківської області	ТОВ «ЛЕГІОН-ПРОМТРАНС»	5	56%	985 094	36%
Гнідинцівська сільська рада Варвинського району Чернігівської області	ФОП Сімонян А. А.	5	50%	937 645	28%
КП «ЕкоВін»	ТОВ «Центр муніципальних систем управління»	5	50%	939 490	74%
Березоволуцька сільська рада	ТОВ «МІБ»	5	45%	974 601	73%

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Замовник	Постачальник	К-сть лотів	Частка участі	Очікувана вартість (грн)	Частка участі
Управління поліції охорони в Сумській області	ТОВ «ІНТЕРБЕЗПЕКА ЛТД»	5	45%	995000	56%
Клішківецька сільська рада	ПП «Ремобуд»	5	36%	983232	44%
Виконавчий комітет Великознам'янської сільської ради Кам'янсько-Дніпровського району Запорізької області	ТОВ «Континент»	5	33%	980967	39%
Управління поліції охорони в Полтавській області	ООО «ПКП Легмаш»	5	33%	997500	36%
ПКВ Шосткинської міської ради «Управління капітального будівництва»	ПП «Шляховик-Шостка»	5	31%	930124	40%
Бабинська сільська рада Гоцанського району Рівненської області	ФОП Мастерко В.В.	5	29%	938140	26%
Виконавчий комітет Мереф'янської міської ради	ФОП Несін С. А.	5	28%	999 995	34%
КП «ЖИЛКОМСЕРВІС»	ТОВ «СТИЛЬ РЕМСТРОЙ»	5	28%	929 527	33%
ГП «Управління з питань економічного розвитку, комунального господарства та самоврядного контролю Новокодацької(Ленінської) районної у місті Дніпропетровську ради»	ТОВ «Магістраль»	5	26%	957 000	36%
Золотівський професійний ліцей	ТОВ «ДЕЛЬТА-ІНВЕСТ»	5	26%	970 379	39%

Замовник	Постачальник	К-сть лотів	Частка участі	Очікувана вартість (грн)	Частка участі
Холоднобалківська сільська рада	ТОВ «Електроток»	5	26%	971 516	17%
Селидівська міська рада	СПСДРБВП ТДВ «Облдоррембуд»	5	24%	933 560	45%
Михайлівська селищна рада Михайлівського району Запорізької області	ФОП Дмитренко Ю. П.	5	22%	993 423	17%
Берестівська сільська рада	ФОП Гаркуша К. П.	5	19%	996 481	19%
Науково-дослідний інститут реабілітації інвалідів (навчально-науково-лікувальний комплекс) Вінницького національного медичного університету ім. М. І. Пирогова	ПрАТ «Деражнянський молочний завод»	5	16%	927 033	22%
Пирятинська міська рада	ФОП Симонян А.А.	5	15%	992 641	23%
Ладизинська міська рада	ФОП Кучерявий О. Р.	5	14%	995 000	18%
ДП «Сєвєродонецька теплоелектроцентраль»	ТОВ «Стела»	5	13%	983 787	10%
Регіональне відділення Фонду державного майна України по Донецькій області	ТОВ «Бізнес-Група Співдружність»	5	11%	958 500	22%
Департамент освіти Харківської міської ради	ТОВ «Інвестиційна компанія"Харківінвест»	5	7%	998 298	6%
Департамент освіти Харківської міської ради	ФОП Домніч О. І.	5	7%	941 577	5%

Annexes

Замовник	Постачальник	К-сть лотів	Частка участі	Очікувана вартість (грн)	Частка участі
Департамент освіти Харківської міської ради	ФОП Ігнатов О. І.	5	7%	946 370	5%
КП «Кременчукводоканал» Кременчуцької міської ради	ПП «ПАПІР-СЕРВІС»	5	6%	955 000	5%
Головне управління житлово-комунального господарства Кіровоградської міської ради	ТОВ «ДІСК СЕРВІС»	5	5%	956 198	3%
Нерубайська сільська рада Біляївського району Одеської області	ТОВ «ВІКБУД ЛТД»	5	5%	957 081	5%
ПАТ «Запоріжжяобленерго»	ДП «Запоріжжя-стандартметрологія»	5	4%	945 215	3%
Національний університет «Одеська юридична академія»	ФОП Ковальчук М. В.	5	3%	993 344	5%
Національний університет «Одеська юридична академія»	ФОП Герасимчук О. М.	5	3%	968 985	5%
Відділ освіти Васильківської районної державної адміністрації	ТОВ «Альянс Холдинг»	5	3%	943 890	4%
Комунальний заклад охорони здоров'я «Лозівське територіальне медичне об'єднання» Лозівської міської ради Харківської області	ПП «БУМЕРАНГ-2»	5	3%	985 684	10%

Замовник	Постачальник	К-сть лотів	Частка участі	Очікувана вартість (грн)	Частка участі
ПАТ «Миколаївобленерго»	ПП «Фреон-С»	5	2%	937 000	1%
Новоград-Волинське міськрайонне територіальне медичне об'єднання	Підприємство Новоград-Волинська Центральна міськрайонна аптека №217	5	2%	953 537	25%
Управління охорони здоров'я Сєверодонецької міської ради	ТОВ «Транс -ВГ»	5	2%	996 680	4%
ПАТ «Чернігівобленерго»	ПП «Торг-Авто»	5	2%	990 000	1%
ПАТ «Чернігівобленерго»	ТОВ «Рид-Торг ЛТД»	5	2%	990 000	1%
ПрАТ «Львівобленерго»	ТОВ «Компанія Укрінтек»	5	1%	998 751	1%

Annexes

ANNEX 3

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

Замовник	Постачальник	К-сть лотів	Частка участі	Очікувана вартість (грн)	Частка участі
Управління капітального будівництва Бориспільської міської ради	ПАТ «Бориспільський комбінат будівельних матеріалів»	6	20%	8 954 958	46%
ПрАТ «Львівобленерго»	ТОВ «Львівенерго-автоматика»	6	1%	8 990 616	6%
Кремінська обласна спеціальна загальноосвітня школа-інтернат	ТОВ «ДЕЛЬТА-ІНВЕСТ»	5	50%	7 276 372	89%
КУ «ЛОБСМП»	ТОВ «ДЕЛЬТА-ІНВЕСТ»	4	57%	5 836 788	99%
Дмитрівський обласний психоневрологічний інтернат	ТОВ «ГЕРМЕС-1»	4	10%	5 897 039	65%
Лисичанська комунальна лікувально-профілактична установа станція швидкої медичної допомоги	ТОВ «ДЕЛЬТА-ІНВЕСТ»	3	33%	4 361 503	99%
Управління містобудування, землепорядкування та комунального майна Біляївської міської ради	ПП «ЕВЕРЕСТ-2010»	3	17%	4 477 689	53%
Старобільська обласна фізіотерапевтична лікарня	ТОВ «АЙ-СІ-БІ»	3	14%	4 398 064	55%
КП з утримання та експлуатації житлового фонду спеціального призначення «Спецжитлофонд»	ТОВ «Квартет Інжиніринг»	3	6%	4 490 010	22%
Національний Фармацевтичний Університет	ТОВ «БУД - НОРМА»	3	1%	4 481 000	17%
Національний Фармацевтичний Університет	ТОВ «СБ РЕМБУДСЕРВІС»	3	1%	4 405 884	16%

ANNEX 4

Учасники, які подали 10 та більше цінових пропозицій без перемог за процедурою відкритих торгів із публікацією англійською мовою

Учасник	К-сть цінових пропозицій	Сума пропозицій (грн)
ФОП Година Г. М.	132	10,211,803
ТОВ «ІНГУЛ»	34	31,092,248
КП «Зеніт» Деснянського району м. Києва	32	60,463,614
ФОП Оводенко Н. М.	30	13 691 950
ФОП Сівенкова А. І.	30	13 691 950
ФОП Кошмак О. П.	30	5,175,206
ТОВ «Електротех»	29	143,542,345
ТОВ «ЮГ-ГАЗ»	21	51,860,416
ТОВ «Фінанс Профіт Груп»	19	27,306,626
ТОВ «Центрнафтогазпостач»	19	36,173,093
ТОВ «Переяслав-Молпродукт»	15	63,061,799
ПП «Агропромбуд»	14	203,945,000
ТОВ «Старттрейдинг»	14	6,556,700
ФОП Мельник В. М.	14	1,322,583
ТОВ «Максмед Інтернешнл»	13	49,598,701

Учасник	К-сть цінових пропозицій	Сума пропозицій (грн)
ТОВ «АВТО ОЙЛ»	13	116,128,701
ТОВ «Трейд Енерго»	12	32,005,975
ТОВ «Абсол Трейд»	12	30,548,500
ТОВ «Елемент ПРО»	11	70,813,545
ТОВ «СТК-Агро»	11	38,360,454
ТОВ «Західна Нафтогазова Компанія»	11	4,504,614,240
ТОВ «Науково-технічне підприємство СТГ Інженерінг»	10	4,280,000
ТОВ «НВП «ФАЗА»	10	111,670,711
ТОВ «Енерджи Україн»	10	171,305,127

ANNEX 5

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

Учасник	К-сть цінових пропозицій	Сума пропозицій (грн)
ТОВ «Центрнафтогазпостач»	542	437,365,982
ТОВ «Небозвід»	114	13,487,988
ТОВ «Кальвін»	80	49,319,607
ПП «Папірнанцторг»	65	38,754,334
ПП «Арденія»	64	2,754,165
ФОП Шостов І. Ю.	62	15,870,723
ФОП Болотніков С. О.	62	32,569,325
ТОВ «Гравіта»	60	46,269,268
ФОП Ємець М. С.	56	69,487,820
ТОВ «ТЕХ-ДИЛЕР-МАКС»	53	72,979,308
ТОВ «ААА+»	48	37,729,524
ТОВ «БЕРКАНА +»	46	2,399,747
ТОВ «БЛЕНД ГРУП»	42	125,242,949
ФОП Колесов М. О.	38	9,130,468
ТОВ «Облгазпостач»	35	41,834,470
ФОП Бородовська В. В.	32	11,022,211

Annexes

Учасник	К-сть цінових пропозицій	Сума пропозицій (грн)
ТОВ «МАРКЕТІНВЕСТГРУП»	31	19,122,143
ФОП Гаврилейченко О. І.	29	12,366,708
ТОВ «ТехМедКонтракт»	27	31,554,891
ТОВ «Автотрансагентство»	26	77,566,896
ФОП Страшний О. В.	26	10,991,972
ФОП Косовецька С. П.	26	10,120,503
ФОП Мішустіна К. О.	26	13,650,909
ТОВ «Підприємство «Укрбудінвест»	24	6,863,266
ТОВ «Укр-Альянс Груп»	23	27,541,170
ТОВ «Українська великовантажна техніка»	23	66,864,470
ФОП Гозулова О. В.	23	1,304,682
ФОП Євстіфєєва Н. П.	23	1,924,038
ФОП Заєць Б. М.	23	8,489,082
ТОВ «Спец Ком Транс»	22	49,240,504
ФОП Хохотва І. І.	22	21,283,840
ФОП Сіра О. І.	22	9,290,885
ПП «БОВІС»	21	7,613,511

Учасник	К-сть цінових пропозицій	Сума пропозицій (грн)
ТОВ «ЛІНЕЯ»	21	19,288,680
ТОВ «Апофарм»	21	3,715,857
ФОП Онопріюк О. Я.	21	9,597,734
ФОП Пересадова Я. М.	21	7,591,289
ФОП Поїздник В. М.	21	23,275,152
Приватне сільгосппереробне виробничо-комерційне підприємство «Поділля-Агро»	20	5,480,223

Annexes

ANNEX 6

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

Замовник	К-сть лотів	Очікувана вартість (грн)	К-сть унік. учасників	К-сть цінових пропозицій	К-сть дискв.	% економії	Сер. к-сть пропозицій на торги
Управління освіти Херсонської міської ради	1,092	27,883,666	14	2,671	2	0.31%	2.45
Військово-медичне управління Служби безпеки України	547	21,671,742	115	1,329	32	21.90%	2.43
Філія «Дарницький вагоноремонтний завод» публічного акціонерного товариства «Українська залізниця»	229	524,988,520	171	572	97	1.39%	2.50
ДП «Осмолодське лісове господарство»	171	17,363,573	32	345	1	3.28%	2.02
ДП «Надвірнянське лісове господарство»	150	12,799,670	43	304	1	8.96%	2.03
ДУ «Науково-практичний медичний центр дитячої кардіології та кардіохірургії МОЗ України»	118	55,552,728	70	277	33	12.21%	2.35
ДП «Український науково-дослідний і навчальний центр проблем стандартизації, сертифікації та якості»	105	7,576,600	33	227	4	1.26%	2.16
КУ «Міська клінічна лікарня № 11»	69	9,605,437	43	150	3	7.91%	2.17
ДП «Брошнівське лісове господарство»	62	7,486,350	24	130	6	2.31%	2.10

ANNEX 7

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

Замовник	К-сть лотів	Очікувана вартість (грн)
Автозаводська районна адміністрація виконавчого комітету Кременчуцької міської ради	1	199,900
Адміністрація Індустріального району Харківської міської ради	1	199,990
Адміністрація Немишлянського району Харківської міської ради	1	199,000
Білоцерківська загальноосвітня школа І-ІІІ ступенів №15 Білоцерківської міської ради Київської області	1	199,000
Борзнянське міжрайонне управління водного господарства	1	199,890
Виконавчий комітет Слобожанської селищної ради Дніпропетровської області	1	199,900
Вище професійне училище №20 м. Львова	1	199,000
Відділ культури, туризму, національностей та релігій Радехівської районної державної адміністрації Львівської області	1	199,200
Відділ освіти Овруцької районної державної адміністрації Житомирської області	1	199,900
Відділ освіти Яготинської районної державної адміністрації	1	199,000
Військова прокуратура Південного регіону України	1	199,950

Annexes

Замовник	К-сть лотів	Очікувана вартість (грн)
Військова частина А0666	1	199,999
Волноваське професійно-технічне училище	1	199,500
Головне територіальне управління юстиції у Тернопільській області	1	199,990
Головне управління Держгеокадастру у Сумській області	1	199,000
Головне управління Національної поліції в Херсонській області	1	199,500
Державний навчальний заклад «Львівське вище професійне училище побутового обслуговування»	1	199,959
Державний навчальний заклад «Слов'янський професійний аграрний ліцей»	1	199,000
ДЗ «УНПЦ ЕМД та МК МОЗ України»	1	199,900
Дошкільний навчальний заклад «Вишенька»	1	199,900
ДП Відділ у справах сім'ї, молоді та спорту Житомирської райдержадміністрації	1	199,000
ДПТНЗ «Путивльський професійний ліцей»	1	199,965
ДПТНЗ «Тернопільське вище професійне училище ресторанного сервісу і торгівлі»	1	199,999

Замовник	К-сть лотів	Очікувана вартість (грн)
Житомирський дошкільний навчальний заклад №66	1	199,001
Житомирський дошкільний навчальний заклад №32	1	199,870
Житомирський дошкільний навчальний заклад №37	1	199,956
Житомирський навчально-виховний комплекс №65 «Родина»	1	199,870
Житомирський спеціальний центр розвитку дитини санаторного типу №41	1	199,870
КЗ «Лиманський ЦПМСД ім. М. І. Лядукіна»	1	199,800
КЗ Запорізький колегіум «Мала гуманітарна академія» ЗМР ЗО	1	199,462
Кіровоградська облдержадміністрація	1	199,500
Комунальна 1-а стоматологічна поліклініка м. Львова	1	199,950
Комунальна 6-та міська поліклініка м. Львова	1	199,000
Комунальна установа «Обласний центр соціальної реабілітації дітей-інвалідів» Житомирської обласної ради	1	199,950
Комунальна установа охорони здоров'я Ккілійської районної ради «Кілійський районний центр первинної медико-санітарної допомоги»	1	199,000

Annexes

Замовник	К-сть лотів	Очікувана вартість (грн)
Комунальне підприємство «ЖИЛСЕРВІС-1» Дніпропетровської міської ради	1	199,990
Комунальний заклад «Дошкільний навчальний заклад №31 Вінницької міської ради»	1	199,500
Комунальний заклад «Міська спеціалізована дитячо-юнацька спортивна школа олімпійського резерву»	1	199,809
Комунальний заклад охорони здоров'я «Лиманська міська лікарня»	1	199,200
Костянтинівська районна рада	1	199,888
КП «Історико-культурний заповідник «Кладовища по вул. Зеленій»	1	199,950
КП «Редакція Покровської міської газети «Козацька вежа»	1	199,999
КП «Редакція міської газети «Громадська думка»	1	199,900
КП «СпецЕко»	1	199,000
КП «Хмельницька обласна фірма «Фармація»	1	199,000
КП «Дніпропетровське міжміське бюро технічної інвентаризації» ДОР	1	199,900
КП Житлово-комунальне підприємство Нововолинської міської ради	1	199,900
Крижопільська районна рада	1	199,532

Замовник	К-сть лотів	Очікувана вартість (грн)
Національна служба посередництва і примирення	1	199,000
Національний науковий центр «Інститут експериментальної і клінічної ветеринарної медицини»	1	199,999
Національний транспортний університет	1	199,999
Об'єднання співвласників багатоквартирних будинків «Каверіна 26 і 28»	1	199,000
Об'єднання співвласників багатоквартирного будинку «ДІМ»	1	199,400
Об'єднання співвласників багатоквартирного будинку «Центральний»	1	199,000
Орлівська сільська рада	1	199,000
ОСББ «Парусний 10»	1	199,000
Управління з питань екологічної безпеки Запорізької міської ради	1	199,990
Управління охорони здоров'я Чернігівської міської ради	1	199,990
Хустський професійний ліцей сфери послуг	1	199,990
Чайковицька сільська рада Самбірського району Львівської області	1	199,948
Червоноградський Народний дім	1	199,999

Annexes

Замовник	К-сть лотів	Очікувана вартість (грн)
Відділ освіти Дергачівської районної державної адміністрації Харківської області	2	399,949
Національна поліція України	2	399,860
Відділ освіти Вільшанської районної державної адміністрації	3	597,214
НГВУ «Бориславнафтогаз» ПАТ «Укрнафта»	3	597,450
КП «Еко-місто»	6	1,199,100
Управління поліції охорони в Полтавській області	6	1,197,000
Міський комунальний клінічний пологовий будинок №1	7	1,394,383

