

24-HOUR FUNCTIONALITY IN PROZORRO:

Was the Participant Saved?

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Author: Artem Davydenko

Team:

Yurii Hermashev, Artem Davydenko, Valeriia Zalevska, Khrystyna Zelinska, Polina Kolhanova, Ivan Lakhtionov, Oleksandr Orlov, Serhii Pavliuk, Lesia Padalka, Yaroslav Pylypenko, Kateryna Rusina, and Anastasiia Ferents

Reviewer: Mykola Smyrnov, partner of the Pravoe Delo law firm

Literary editor: Mariana Doboni

Design: Kateryna Kysla

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Transparency International Ukraine
Sichovych Stritsiv st. 37—41, 5th floor
Kyiv, Ukraine, 04053
tel.: +38 044 360 52 42
website: ti-ukraine.org
e-mail: office@ti-ukraine.org



The study has been prepared by the DOZORRO team

[DOZORRO](#) is a project of civil society organization Transparency International Ukraine which aims to ensure fair play in public procurement

The project team has created and administers the [dozorro.org](#) monitoring portal, as well as the [public](#) and [profesional](#) BI Prozorro analytics modules. In addition, DOZORRO is developing the DOZORRO community, a network of civil society organizations which monitor public procurement and report violations to supervisory and law enforcement agencies

Our other studies can be found in the section Research Public Procurement on Transparency International Ukraine's website: bit.ly/DOZORRO-research



CONTENT

04 ABBREVIATIONS

05 INTRODUCTION

06 SECTION 1.

How the 24-hour functionality
to correct inconsistencies works

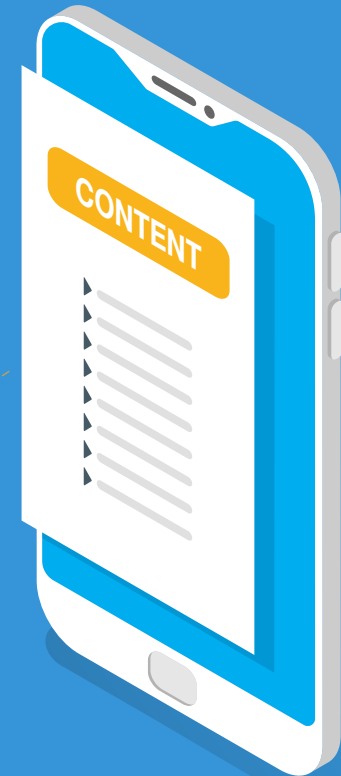
09 SECTION 2.

Statistical data

32 SECTION 3.

Surveying procuring entities
and business in Prozorro

40 CONCLUSIONS





ABBREVIATIONS

The Law The Law of Ukraine “On Public Procurement” of December 25, 2015, No. 922 as amended

AMCU Board Permanent Administrative Board for Consideration of Complaints on Violations of Public Procurement Legislation of the Anti-Monopoly Committee of Ukraine

INTRODUCTION

From the point of view of savings, the ideal competitive procurement is when the procuring entity signs a contract with the participant who provided the cheapest bid. However, in practice, procuring entities often have to reject participants with the lowest price based on the auction results.¹ The reasons may be different. Someone might have misunderstood the requirements of the tender documentation and sells the wrong product, and not the one the procuring entity is looking for. Or the participant did not provide an important document, and the procuring entity is forced to reject their bid because of this.

There are also less unambiguous situations. The participant could have submitted all the necessary documents and offered exactly the product that the procuring entity was looking for. However, one of their documents indicates a false date or an incorrect surname. Formally, this tender bid does not meet the requirements of the Law, and it must be rejected. However, the question arises: *why reject participants whose tender bid has only minor inaccuracies that neither affect competition in Prozorro nor the price and quality of the procurement item in any way?*

Trying to solve this problem, the Verkhovna Rada of Ukraine adopted amendments to the Law of Ukraine “On Public Procurement” of December 25, 2015, No. 922 (hereinafter referred to as the Law), one of which introduces a 24-hour mechanism for correcting errors. It lies in the fact that the procuring entity is obliged to give the participant the opportunity to correct certain inaccuracies in their tender bid within a short period of 24 hours. If the participant takes advantage of this opportunity, the procuring entity will consider the already corrected bid and, possibly, recognize it as the winner of the tender.

1. P. 2 of the explanatory note to [draft law](#) of Ukraine on amendments to the Law of Ukraine “On Public Procurement” and some other legislative acts of Ukraine concerning the improvement of public procurement of August 29, 2019, No. 1076: bit.ly/3xPiJm

In this study, we tried to answer the question whether the new version of the Law was able to “save” participants who made mistakes in their documents, and save taxpayers’ money. In particular, we dwell upon the following:

- what rules does the 24-hour error correction functionality work under, what errors are allowed to be corrected, and so on;
- the statistical results of the 24-hour error correction mechanism: how often participants are given the opportunity to correct inconsistencies, how often they correct them, and how often they become winners after that, which lots most often feature the possibility to correct errors in 24 hours, and so on;
- what participants and procuring entities themselves think about the 24-hour error correction system (we present the results of an online survey).

This study will primarily be useful for:

- members of the Committee of the Verkhovna Rada of Ukraine on Economic Development, as its results may form the basis of relevant legislative initiatives;
- the Department of Public Procurement of the Ministry of Economy of Ukraine and SE Prozorro, as it will allow to make decisions that can improve the 24-hour error correction functionality based on analytical data;
- procurement participants who may form or change approaches to correcting inaccuracies in their tender bids;
- procuring entities to understand the mechanism that can save them money and help avoid unjustified deviations.

SECTION 1

HOW THE 24-HOUR FUNCTIONALITY TO CORRECT INCONSISTENCIES WORKS

The general logic of the 24-hour error correction functionality is that the participant gets the opportunity to correct certain errors in their documents, and the procuring entity — not to reject this bid and, accordingly, not to proceed to the evaluation of a more expensive one.

Please note that the procuring entity not “*may*,” but rather “*must*” provide the participant with the opportunity to correct inconsistencies if they are such in the bid. However, this must be done under certain conditions and restrictions, which will be discussed later.

More specifically, the 24-hour error correction mechanism is mentioned in Article 29, part 16 of the Law.

What inconsistencies can be corrected

The procuring entity may request that only two types of inconsistencies be corrected:

- in information and/or documents confirming the compliance of the participant in the procurement procedure with the qualification criteria in accordance with Article 16 of the Law (availability of material and technical base, employees with appropriate qualifications, financial capacity and experience);
- in information and/or documents confirming the right to sign the tender bid and/or the procurement contract.

All other inconsistencies, such as the absence of an electronic signature on the bid, or documents or certificates in accordance with Article 17 of the Law,² cannot be

2. bit.ly/3gNwyff

fixed. The procuring entity cannot request that the participant eliminate such inconsistencies, and is obliged to reject the tender bid with such errors.

Is it allowed to upload missing documents

If everything is clear with correcting inaccuracies in the documents already uploaded by the participant, then there is no unified position on the possibility of adding missing documents.

The Law states:



The participant in the procurement procedure corrects inconsistencies in the information and/or documents submitted by them in the tender bid, which were identified by the procurement entity after the disclosure of the tender bids, by uploading updated or new documents through the electronic procurement system within 24 hours from the moment the procuring entity places a notification in the electronic procurement system requesting the elimination of such inconsistencies.³



The position of the Permanent Administrative Board for Consideration of Complaints on Violations of Public Procurement Legislation of the Anti-Monopoly Committee of Ukraine (hereinafter referred to as the AMCU Board) is that the absence of the document required by the tender documentation is also considered “information inconsistency.” Thus, according to the AMCU Board, in such cases,

3. Article 26, part 9 of the Law: bit.ly/3xKgDnJ

the procuring entity is obliged to grant the participant the right to upload the necessary documents.⁴

The courts in their decisions rely on the fact that the procurement entity may provide the participant with the opportunity to correct inconsistencies only in the previously submitted documents.⁵

Auditors of the State Audit Service of Ukraine presented both positions in the conclusions of their monitoring sessions.⁶

Thus, there is no unanimous answer to this question as of July 2021, and the best strategy for participants is to carefully prepare their tender bid so as not to get into a controversial situation.

Time for correcting inconsistencies

The participant has 24 hours to correct errors in the tender bid. Kindly note that this period is not one business or calendar day, but 24 hours, regardless of what day it falls on.

If, for example, the procuring entity sent a request to eliminate inconsistencies at 15:15 on December 31, the participant must upload updated documents to Prozorro by 15:15 on January 1.

What does the procurement entity specify in the requirement

Although not all procuring entities comply⁷ with this requirement, the Law defines exactly what a notification to the participant about the elimination of errors should look like. In their requirement, the procurement entity must specify:

- list of identified inconsistencies;
- reference to the requirement(s) of the tender documentation in which inconsistencies have been identified;
- list of information and/or documents that the participant must submit to eliminate the identified inconsistencies.
- This list is important because the procuring entity cannot demand from the participant, for example, to upload a document that was not required by the tender documentation, or reject the participant for non-correction of inconsistencies in the document that the procurement entity did not require to be corrected.

Procurement where the 24-hour error correction functionality can be applied

The 24 hours error correction functionality can only be used in the following types of procurement:

- open bidding (incl. those published in English);
- competitive dialogue (incl. publication in English);
- simplified bidding using an electronic procurement system (not to be confused with simplified procurement);
- limited participation bidding (not yet implemented in Prozorro as of July 2021);
- framework agreements.

In all other types of procurement, including the simplified one, the procuring entity cannot give the participant 24 hours to correct inconsistencies as of July 2021.

4. bit.ly/3j8EnxR

5. bit.ly/3659fav

6. For example, monitoring UA-M-2020-07-23-000028 in the procurement [UA-2020-06-23-006894-a](#) and monitoring UA-M-2021-01-13-000025 in the procurement [UA-2020-09-01-009102-b](#). Source: bit.ly/3j8EnxR, [UA-2020-06-23-006894-a](#) and [UA-2020-09-01-009102-b](#)

7. For example: [UA-2020-10-16-002527-a](#)



Rejection of participants' bids

If the participant has not corrected the inconsistencies identified by the procurement entity within 24 hours, the procuring entity is obliged to reject such tender bid.⁸

The procuring entity cannot give the participant another opportunity to correct the identified inconsistencies, *“except for cases related to the implementation of the decision of the review body.”*⁹ The Law does not specify what particular cases can be discussed.¹⁰

Please also note that the procuring entity is not obliged to provide the participant with 24 hours to correct errors if there are other inconsistencies in their tender bid that the Law does not allow to be corrected,¹¹ or if such a participant does not meet other requirements of the tender documentation.

8. Article 31, part 1, clause 1, paragraph 5 of the Law: bit.ly/2EmiGZe

9. Article 29, part 16, clause 3 of the Law: bit.ly/2YCaLaH

10. Most likely, this refers to the cases when the AMCU Board, for example, canceled the procuring entity's decision on disqualification, so the procuring entity must re-start the stage of qualification of the participant.

11. bit.ly/3xSX0ih



SECTION 2

STATISTICAL DATA

Research object: over-threshold lots announced from April 19, 2020, to April 30, 2021, in which procuring entities required participants to eliminate inconsistencies.

If we use the phrase “successful lots” or “successfully completed” in the text, we mean those lots that ended with the signing of the contract.

Data relevance: the data is relevant as of June 2021.

Methodology: we used the data available in the Prozorro system. We processed them using the professional¹² and public¹³ Prozorro analytics modules and Microsoft Excel.

Research limitations: due to technical limitations, the Prozorro analytics module cannot obtain information on such types of procurement as competitive dialogue and framework agreements (specifically on the stage of participant selection). Therefore, we do not consider this stage of procurement in our research.

Warning: due to rounding the percentage to tenths, the amount calculated may not match (up to tenths) the amount specified.

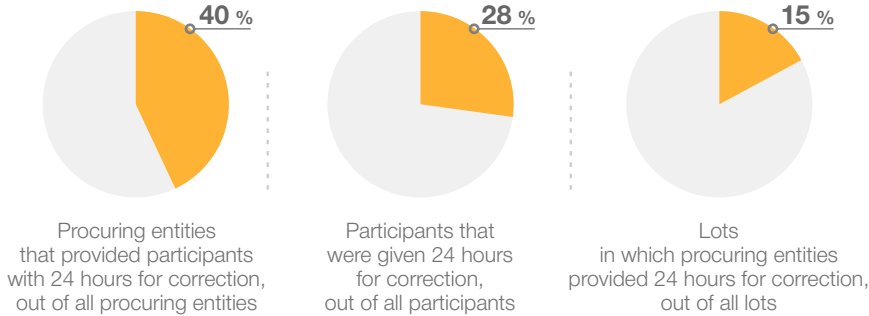


¹² bit.ly/3psMz7b

¹³ bit.ly/2LQ08JA

GENERAL STATISTICS

General statistics of using the 24-hour error correction functionality in four types of procurement



During the research period, 5,253 procuring entities sent 30,293 requirements to correct inconsistencies in 23,605 lots to 12,602 participants. According to the analytics module, such cases occurred only in open bidding (including those published in English), in the negotiation procedure for defense needs, and in simplified bidding using the electronic procurement system (defense procurement, not to be confused with simplified procurement).

If to take 100% of all the types of procurement mentioned above¹⁴ with the completed and active status, then during the research period, 40% of all procuring entities of the above-mentioned types of procurement used the 24-hour error correction functionality. They allowed almost a third (28%) of all participants in

these procurement transactions to correct inconsistencies in the bid in 15% of the lots out of all the announced ones.

At the same time, in 59% of the lots with 24 hours to correct errors the winners were precisely those participants who were given 24 hours to correct errors.

Please note that the above indicators may change over time because in the lots, announced, for example, in April 2021, procuring entities may create new requirements to eliminate inconsistencies later, for example, in June.

For clarity, let us present the following figures:

- On May 6, 2021, the system had information about 27,871 requests to correct inconsistencies;
- On June 2, at the time of writing this section, there were already 30,293 such cases;
- On June 21, their number increased to 31,100.

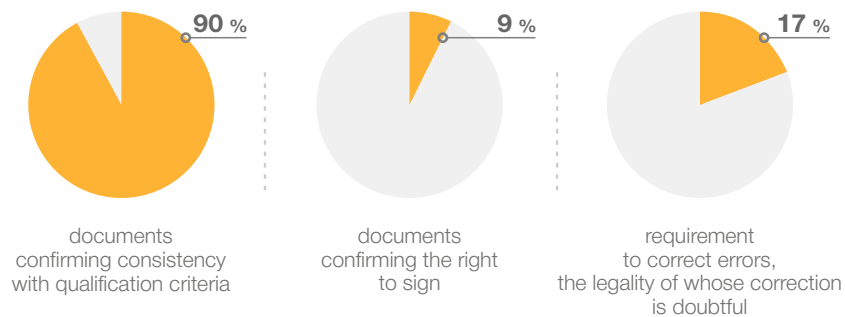
Conclusion: procuring entities use the 24-hour error correction functionality quite widely. In the first year of its existence, 40% of procuring entities provided an opportunity to correct inconsistencies to almost a third of all participants in over-threshold procurement.¹⁵

14. Open bidding, open bidding with publication in English, negotiation procedure for defense purposes, and simplified procurement procedure

15. To participants of open bidding, open bidding with publication in English, negotiation procedure for defense needs and simplified procurement procedure

What inconsistencies did procuring entities require participants to eliminate

What did procuring entities demand to correct, percentage of mentions



Please note that by providing a participant with 24 hours for error correction, a procuring entity could indicate several inconsistencies in the tender bid which need to be corrected.

To find out which inconsistencies procuring entities most often required to eliminate, we analyzed 400 cases of providing participants with 24 hours for correction. The statistical error of the sample with a probability of 0.95 does not exceed 5%. Please note that procuring entities may have requested that several different errors be corrected at once in a single tender bid.

In most cases, inconsistencies related to qualification criteria, they are mentioned in our sample 457 times (90% of all the mentions). In another 44 cases (8.7%), procuring entities demanded to confirm the right to sign. In 7 cases, participants had to provide a translation of documents, for example, to confirm that they had similar experience.¹⁶

In every sixth case (67 cases, or 16.8 %) procuring entities demanded to correct those errors whose correction, in our opinion, is not allowed by the Law, or when

16. [UA-2021-02-11-003183-c](#)

the legality of the correction is doubtful, to say the least. Such requirements concerned the imposition of the QES,¹⁷ providing a questionnaire of the counterparty — a legal entity,¹⁸ the corrected price offer,¹⁹ providing a copy of a passport,²⁰ information on lawsuits,²¹ and so on.

In addition, individual procuring entities, instead of requesting to eliminate inconsistencies, indicated in the comment field for 24 hours for error correction the protocol on rejection of the participant's tender bid²² or a requirement to justify an abnormally low price.²³

Conclusion: participants are significantly more likely to make mistakes in documents confirming qualification criteria than in documents confirming the right to sign.

In approximately one in six cases, procuring entities demand to correct errors, whose legality of correction is questionable, to say the least. In our opinion, this is a fairly high rate, and it can be interpreted, in particular, as a request for the possibility to correct more types of errors in the bid than the Law currently allows.

However, of course, this may also indicate ignorance or deliberate violation of the Law, or the existence of situations in which it is difficult to clearly understand whether it is possible to give 24 hours for error correction.

17. SP Yukhymenko Liudmyla Vasyliivna: [UA-2020-05-08-000658-c](#)

18. [UA-2020-12-23-018654-c](#)

19. [UA-2020-07-22-007853-b](#)

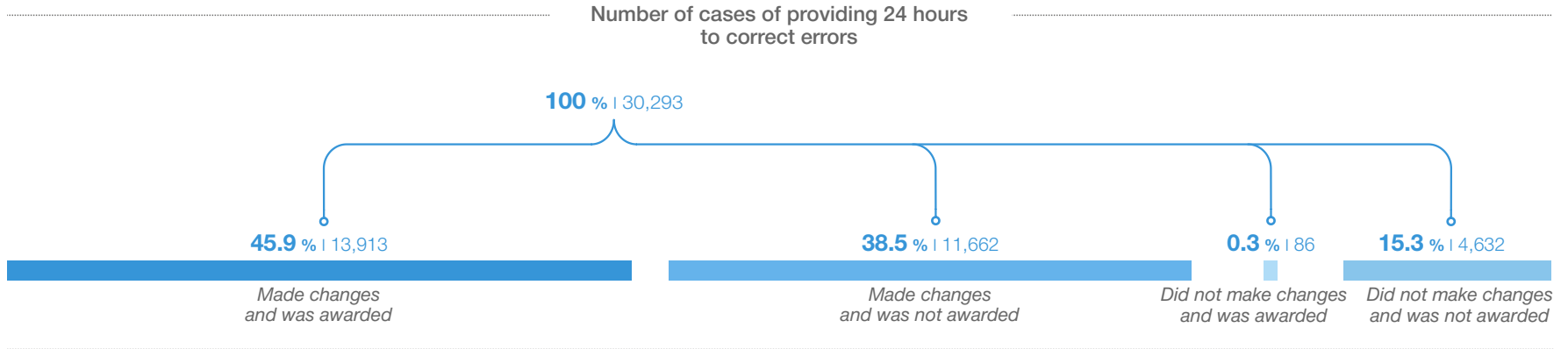
20. TOV Instalplast: [UA-2020-09-16-004656-a](#)

21. [UA-2020-08-18-002816-a](#)

22. [UA-2020-08-11-007255-a](#)

23. [UA-2020-05-04-001236-b](#)

Actions of participants upon being provided with 24 hours for error correction



In most cases (84%), participants made changes to the tender bid. However, we do not evaluate whether these changes met the procuring entity's requirements.

Only 46% out of all participants who were given 24 hours by procuring entities to correct errors were awarded.

If we consider separately only those participants who made changes to the tender bid, then they subsequently won in slightly more than half of the cases (54.4%). The rest 45.6% of the cases (or 11,662) distributed as follows:

- in 30.1% of the cases, the procuring entity canceled the lot or declared the procurement unsuccessful;
- in 56.6% of the cases, the procurement was completed successfully;

- in the rest 13.3% of the cases, the lot is still active.

We also found 86 cases (0.3%), when the participant did not upload the updated documents at the procuring entity's request (or did not upload them on time) and was still awarded.

Conclusion: the majority of participants (84%) do make changes to the tender bid when procuring entities give them such an opportunity. However, in the procurement transactions where the procuring entity gave the opportunity to correct errors, only slightly less than half of all participants who were given this opportunity (46%), or 54% of those who did make changes, were awarded.

Participants who did not make changes to the tender bid

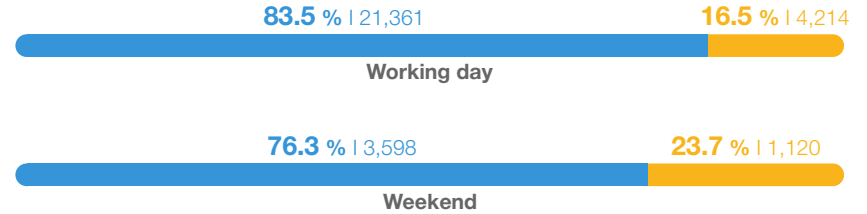
We assume that the participants may not have made changes to the bid, in particular, for the following reasons:

- 1) the period when it was necessary to correct inconsistencies fell on weekends, and participants either noticed the message late or did not have time to make changes;
- 2) participants are not familiar with the 24-hour error correction mechanism and have not figured out what needs to be done;
- 3) procuring entities' notification about the elimination of errors contained violations: procuring entities demanded to eliminate the errors whose elimination they had no right to demand, vaguely indicated which errors the bid contained, and so on;
- 4) participants were no longer interested in being awarded;
- 5) participants did not have the opportunity to make changes: there were no documents with the corrected information or the deadline for receiving them was too short.

We tried to test how close the first two reasons can be to the truth. We were unable to verify the last three assumptions using the tools available to us.

What day did the deadline for making changes fall on

100 %

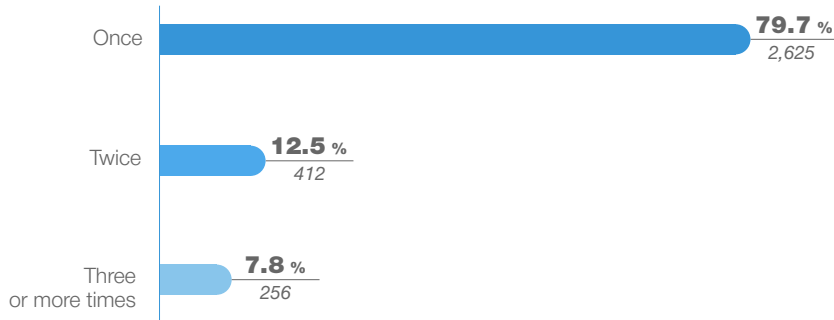


- **Reason 1: making changes fell on the weekend.**

We can assume that there is indeed a problem of making changes over the weekend. However, most likely it is not that serious. The share of participants who make changes to the bid both on a working day and on a weekend is quite high. Although for weekends, this figure is less by 7.2%.



In how many cases did participants not make changes to the bid **100 %**



- **Reason 2: some participants do not know how to act correctly if they are given 24 hours for error correction.**

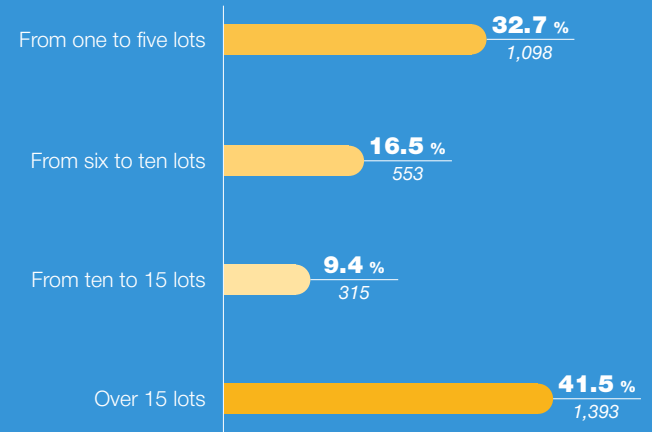
We can't find out exactly in how many cases participants did not understand the rules for providing 24 hours for correction, but we will try to roughly answer this question using indirect criteria.

In particular, 80% of participants had only one case where they did not make changes to their bid. In the context of our research, this case was actually their first and the only one where the procuring entity provided 24 hours for error correction. Thus, the version that the participants received 24 hours for correction for the first time and did not figure out what to do is possible, although, of course, it is not proven.

At the same time, please note that it is not known how these same participants will act if procuring entities give them 24 hours to correct errors a second time.

We also assumed that the less often a participant takes part in public procurement, the less likely they are to have a good understanding of the rules, including the rules for using the 24-hour functionality to correct inconsistencies.

The number of lots in Prozorro that the business participated in during the year we studied **100 %**



However, it turned out that a significant number of participants who did not make changes often participate in procurement, on average more often than once a month (42% of participants had more than 15 lots per year). A third of the participants are really quite inactive in Prozorro.

Conclusion: approximately one in six participants given 24 hours for correction did not make changes to their tender bid. We cannot say for sure why individual participants didn't do this, but there may be different reasons for this. In particular, documents without errors could not exist or could not be obtained in such a short time, participants did not understand the functionality of 24 hours for error correction, the violation was on the procuring entity's side, and so on.

Why weren't participants awarded after correcting inconsistencies

There were cases when participants who uploaded new documents to the system were not awarded. Some, for example, rejected the request to extend their bid or did ²⁴ not provide other documents, and because of this, the procuring entity should have not provided them with 24 hours for correction, but should have immediately rejected them.²⁵ However, in most cases, the reason for the rejection was that, in the opinion of the procuring entity, the participant did not actually correct the errors. We didn't investigate the specific reasons why this happened. Perhaps the procuring entity did not clearly explain their requirements, or the participant misunderstood what needs to be corrected, or made a mistake again.

The second most common reason was that the participant offered a higher price. This applies to open bidding with publication in English, when the participant received a request at the pre-qualification stage, but as a result of the auction, another participant with a lower price was awarded.

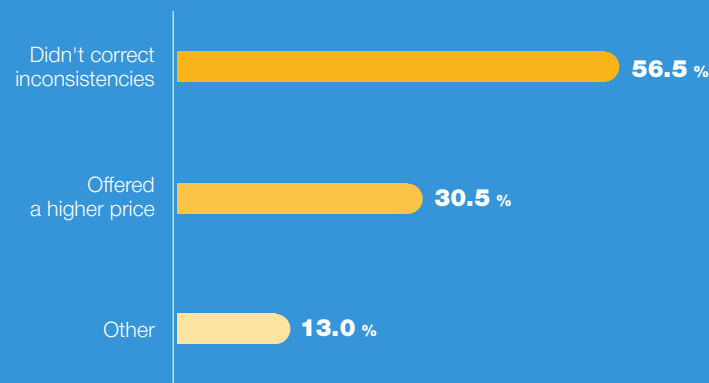
In the category "other" we included the decision of the AMCU Board or the State Audit Service, the participant refused to sign the contract or did not provide certain documents as the winner.

24. PE OKKO Contract in procurement [UA-2020-10-23-009412-a](#)

25. SP Serdiuk Anton Serhiovych in procurement [UA-2020-09-22-012590-b](#)

Reasons why the participant did not become the winner after uploading the updated documents

100 %



Conclusion: in approximately 40% of cases where the procuring entity gave the participant 24 hours for correction, the latter made changes, but was not awarded. In slightly more than half of them, this happened because the participant, in the opinion of the procuring entity, did not correct the inconsistencies.

In about a third of cases, the participant was not awarded because they offered a higher price than their competitors.

Savings due to the 24-hour error correction functionality

One of the main advantages of the 24-hour functionality for correcting inconsistencies is that it allows to save taxpayers' money. Ideally, the participant will be able to correct errors and upload the updated documents to the system, and the procuring entity will not consider more expensive bids from other participants and will not award somebody from among them.

We decided to calculate the minimum amount of savings as follows:

- only completed lots were selected from those in which participants were given 24 hours to correct errors;
- only those cases were considered where the participant received 24 hours for correction, corrected the inconsistencies, and was awarded;
- only those cases were considered where the winning bid was followed by at least one more higher price offer, which could theoretically be recognized as winning;
- the minimum amount of savings was calculated as the difference between the winning bid of a participant who received 24 hours to correct errors and the bid of the next participant.

Please note that if the procuring entity rejected the bid of a participant who had been previously given 24 hours to correct errors, the next price offer would not necessarily be a winning one. In addition, the procurement could be canceled, and a new one announced, which creates additional difficulties in determining what is considered savings. Therefore, our model, although close to reality, is simplified.

Of all the lots in which procuring entities gave participants 24 hours for correction, 75.3% or 17,803 lots had a status of the completed ones. Out of these, our conditions (there must be another more expensive bid and the winner was the participant who was given the opportunity by the procuring entity to eliminate inconsistencies) were met by 63.7%, or 11,335 lots.

The savings in these 11,335 lots amounted to UAH 2.25 bln, with the expected cost of all the completed lots with 24 hours for correction amounting to UAH 200.13 bln. Thus, the 24-hour error correction functionality saved at least 1.1% from the expected cost of all the completed lots in which procuring entities gave participants the opportunity to correct errors, or 1.8% of the lots where the winners were participants given 24 hours for correction.

Sometimes, the savings due to applying 24-hour functionality for error correction were minimal, for example, UAH 1, as in the case of procurement of license plates by the Ministry of Internal Affairs of Ukraine,²⁶ or even 1 kopiika,²⁷ or there were no savings at all.²⁸

However, there were other cases. For example, the executive committee of the Novokakhovska City Council of the Kherson oblast saved at least UAH 119.9 mln by purchasing works on the construction of an Olympic sports center, giving the participant the opportunity to correct inconsistencies in documents.²⁹ The record in our sample was set by NJSC Naftogaz of Ukraine in the procurement of legal services: the difference between the winning bid and the next one was UAH 288.2 mln.³⁰

On average, each of the lots that provided savings saved taxpayers' UAH 199,000.

Conclusion: participants made changes and were awarded only in 46% of the cases in which procuring entities provided them with such an opportunity. However, even under such conditions the 24-hour error correction functionality saved the country at least UAH 2.25 bln a year, which is comparable to the financing of the State Management of Affairs for 2021 (UAH 2.96 bln³¹).

26. [UA-2020-04-22-000584-c](#)

27. [UA-2020-05-13-001322-a](#)

28. [UA-2020-06-09-002343-b](#)

29. [UA-2020-12-29-005609-c](#)

30. [UA-2020-10-30-007457-c](#)

31. [bit.ly/3swwAP](#)



Is 24 hours enough for participants to correct inconsistencies

Some participants claim that they do not have time to make the changes specified by the procuring entity. For example, the procurement organizer may have sent a request to eliminate inconsistencies in a way that the end date is a non-working day (Saturday, Sunday, or a public holiday). However, not all platforms notify participants that the procuring entity requires them to eliminate inconsistencies, and some may find out about this after the weekend, when the deadline has expired.

The deadline for every sixth case when the procuring entity demanded to eliminate inconsistencies fell on a weekend (17.4%). Every fourth participant has experienced this situation at least once (26.4 %) from among those who received 24 hours for correction. In addition, 38% of all procuring entities that provided participants with 24 hours for correction gave the opportunity to correct inconsistencies over the weekend.

To find out whether 17.4% of weekend corrections is a lot or not (i.e., whether it is possible to assume that procuring entities deliberately require to eliminate inconsistencies over the weekend), we calculated the total number of weekends for the study period. Saturday, Sunday, and public holidays amounted to 31.4% from all the days from April 19, 2020, to April 30, 2021.

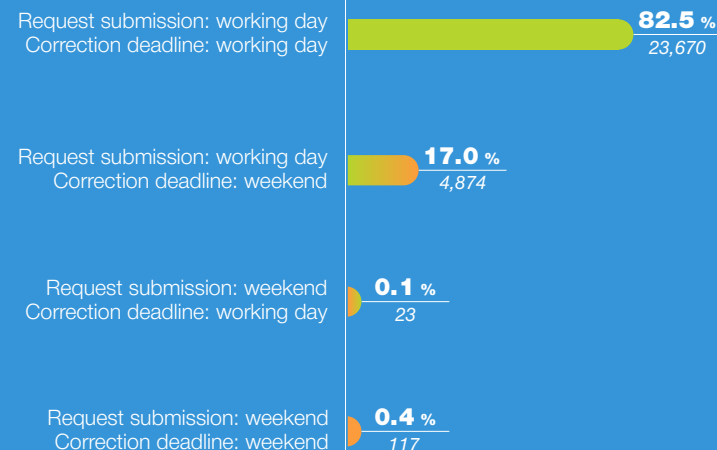
In open bidding, the deadline for consideration of the tender bid should not exceed five working days, but it can be extended up to 20 working days.³² Having 20 days to consider bids, procuring entities could only allow participants to correct inconsistencies on weekends, if they deliberately wanted to do so.

However, there were 31.4% of weekends during the period we studied, and weekend corrections occurred only in 17.4% of cases where 24 hours were provided for corrections.

³². Article 29, clause 10 of the Law: bit.ly/2YCaIaH

On what days did error correction fall on, number of cases / share of cases

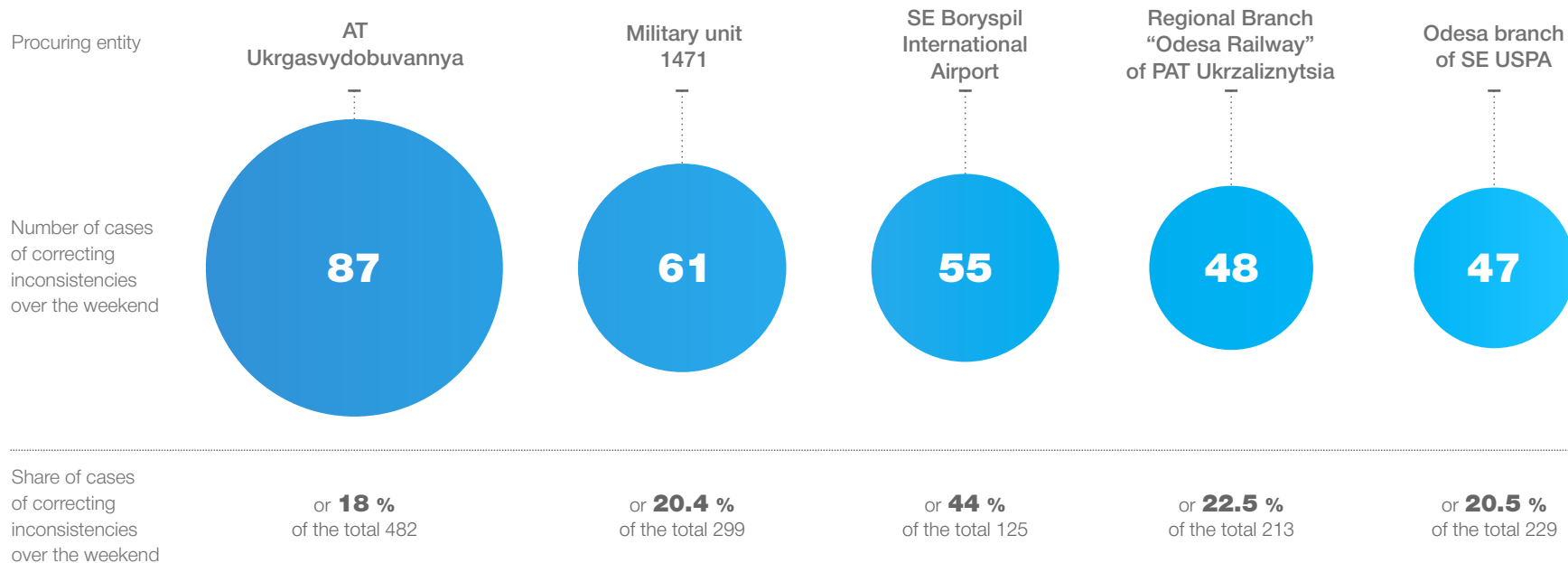
100 %



● weekend ● working day

Procuring entities who gave participants 24 hours to make corrections did not often do so just before the weekend. For example, for the top ten leading procuring entities in terms of the number of corrections over the weekend, the share of such corrections amounted to on average 24%.

Leaders among procuring entities in the number of cases of correcting inconsistencies over the weekend

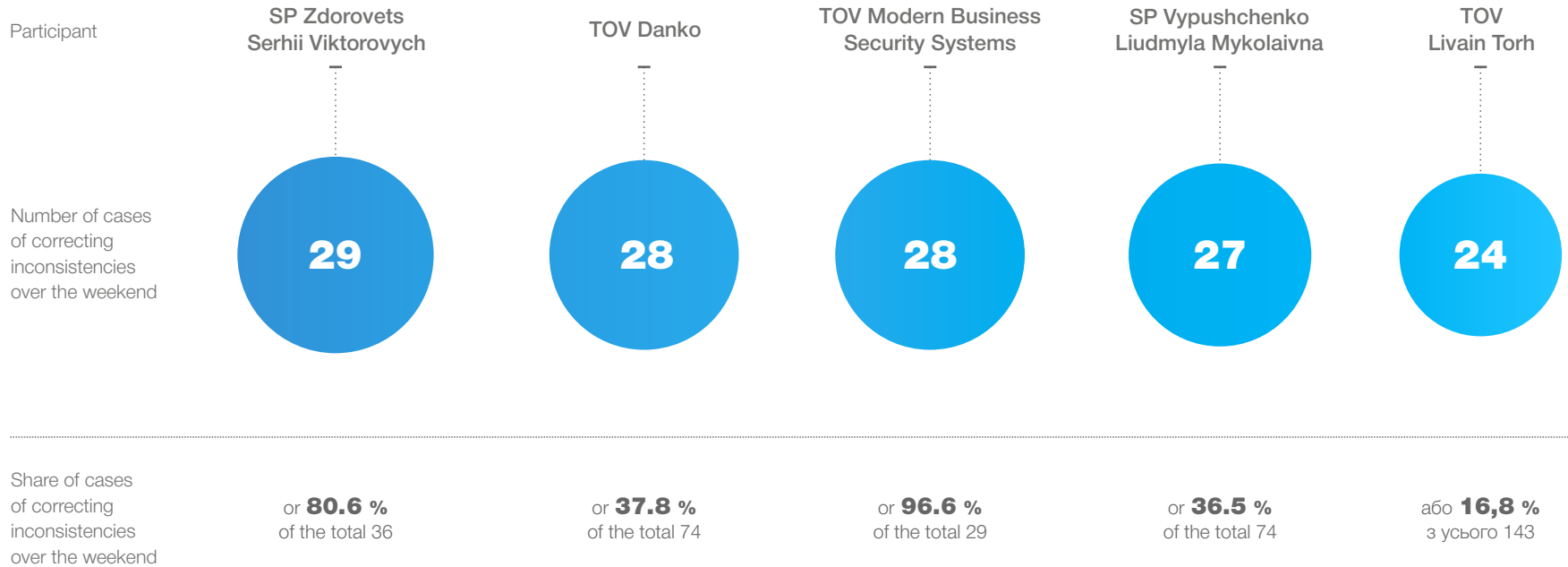


However, there are also those who significantly more often requested to correct inconsistencies just before the weekend. The highway service in the Ivano-Frankivsk oblast had 21 such cases (62% of all its cases), and the executive committee of the Pershotravnevsk village council of the Nikopol district of the Dnipropetrovsk oblast had 9 cases (90% of all its cases).

We also found that the more often the procuring entity provides 24 hours for corrections, the more often these cases fall on weekends, which is generally logical (strong correlation, 0.8422).

With participants who received a request to eliminate inconsistencies over the weekend, the situation is somewhat different. There are also participants for whom the share of such cases was 10-30%. However, the first and third ranked those participants who in most cases were forced to correct inconsistencies precisely over the weekend. For SP Zdorovets Serhii Viktorovych, this figure was 81%. In 29 cases out of total 36, when he had to eliminate inaccuracies in the tender bid, three education departments in the Luhansk oblast allowed him to do so over the weekend. For TOV Modern Business Security Systems, this figure was 97%. In 28 cases out of 29, the participant had to eliminate inconsistencies over the weekend in the procurement of a military unit of the Security Service of Ukraine, the National Aviation University, and two education departments.

Leaders among participants in the number of cases of correcting inconsistencies over the weekend



The correlation between the number of cases of eliminating inconsistencies over the weekend and the total number of cases of providing 24 hours to correct errors is just as strong as in the case of procuring entities (0.7146). That is, the more often the participant received 24 hours for correction, the more often these 24 hours fell in their case on a weekend.

We assumed that those participants who are forced to eliminate inconsistencies on weekends are less likely to do so and less likely to be awarded. This assumption has been confirmed, but the difference is insignificant.

The day when participants had to correct inconsistencies



● working day ● weekend

Conclusion: in every sixth case, the participant was forced to eliminate inconsistencies in their bid over the weekend. However, given how many weekends there were in total during the study period, we cannot say that this rate is abnormally high.

In most cases, the more often participants receive requests to eliminate inconsistencies in general, the more often will they be forced to fix inconsistencies over the weekend.

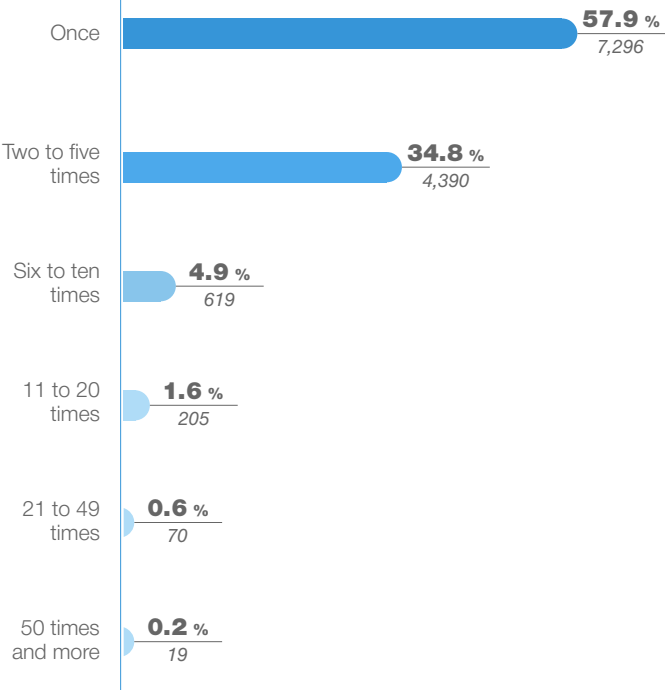
At the same time, individual participants may indeed receive such requests abnormally often on weekends.



Participants given 24 hours for error correction

How many times were participants given 24 hours for error correction

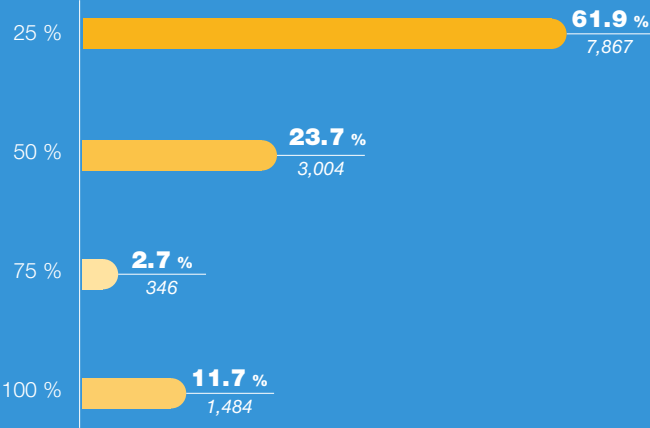
100 % | 12,599



The majority of participants (58%) received 24 hours to correct inconsistencies only once during the year we studied. 93% — from one to five times.

Share of above-threshold lots with 24 hours for correction among all above-threshold lots that the participant took part in

100 % | 12,701

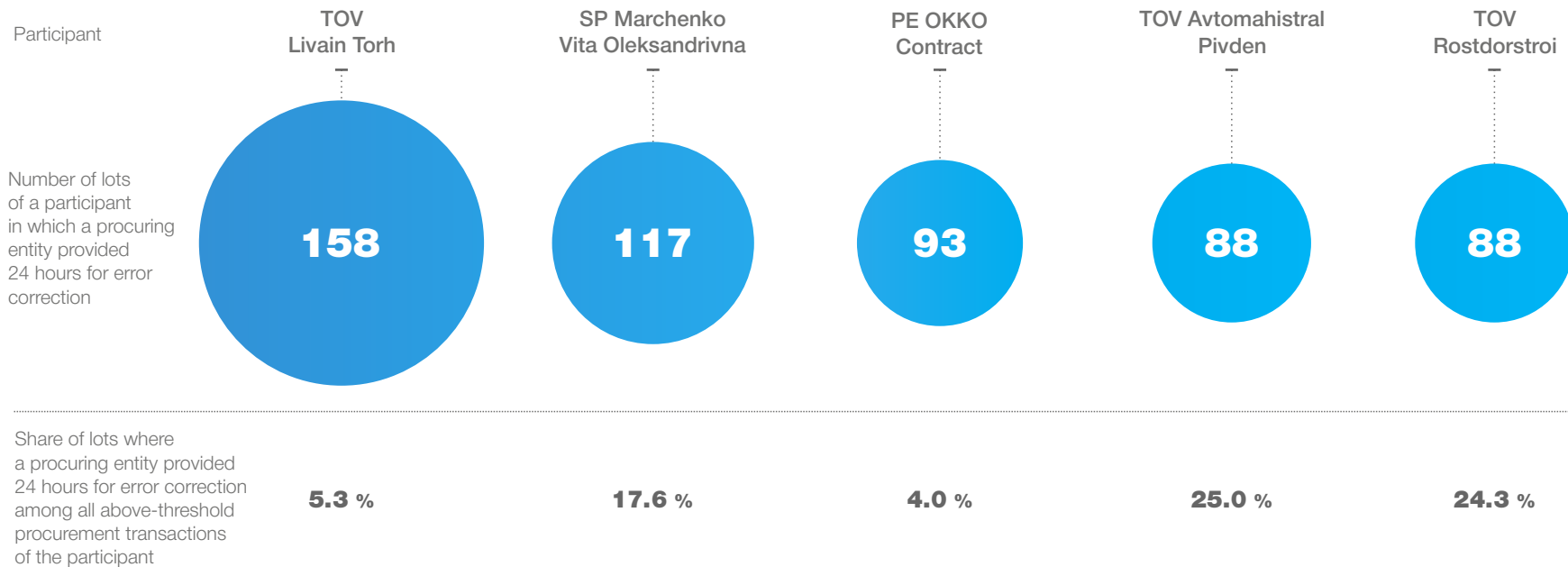


At the same time, lots in which participants received 24 hours for correction accounted for most of them for less than a quarter of all above-threshold procurement transactions in which they participated (62%). Assuming that procuring entities always provide 24 hours for correction when required by the Law, it turns out that most participants rarely make mistakes related to confirming the right to sign or qualification criteria.

Here are the examples of ranges:

- 25% should be read as “0% to 25% inclusive”;
- 50% should be read as “25% (not inclusive) to 50% inclusive.”

Participants who most often were given 24 hours for error correction



At the same time, for 5.1% of participants (646), lots with 24 hours to correct errors ranged from 75% to 100% of all the lots they won (for 555 of them — exactly 100%). That is, perhaps, but for the functionality of 24 hours, they would not have signed any contract in Prozorro.

Most often, procuring entities gave TOV Livain Torh 24 hours to correct inconsistencies — 158 times. However, these lots accounted for only 5.3% of all the participant's above-threshold lots.

Two of the five leading participants in terms of the given 24 hours for correction are engaged in road construction, while the other two are engaged in fuel trading. The main activity of SP Marchenko Vita Oleksandrivna is wholesale trade in food.

We tried to find out what might affect the frequency of giving participants 24 hours for correction. It could be assumed that the higher the average expected cost of lots in which the business participates, the more complex they will be from the point of view of documentation, and the more likely the participant will make a mistake. However, this interdependence is almost completely absent (correlation 0.0591³³).

33. The correlation index was calculated among all participants who received 24 hours for error correction at least once

At the same time, the correlation between how often the participant as a whole takes part in above-threshold procurement turned out to be quite strong.

We also separately analyzed the business that often participates in above-threshold procurement. In this context, we considered participation in at least 12 such transactions to be frequent (on average, once a month during the year). There were 7,575 such participants, or 17% of all those who participated in above-threshold procurement at least once during the study period. As a result, each of the active participants makes an error in the documents confirming the right to sign and qualification criteria on average in 7.6% of the lots they participate in.

Conclusion: the majority of participants (93%) do not have significant experience of 24 hours for error correction, as they received them only once in a year.

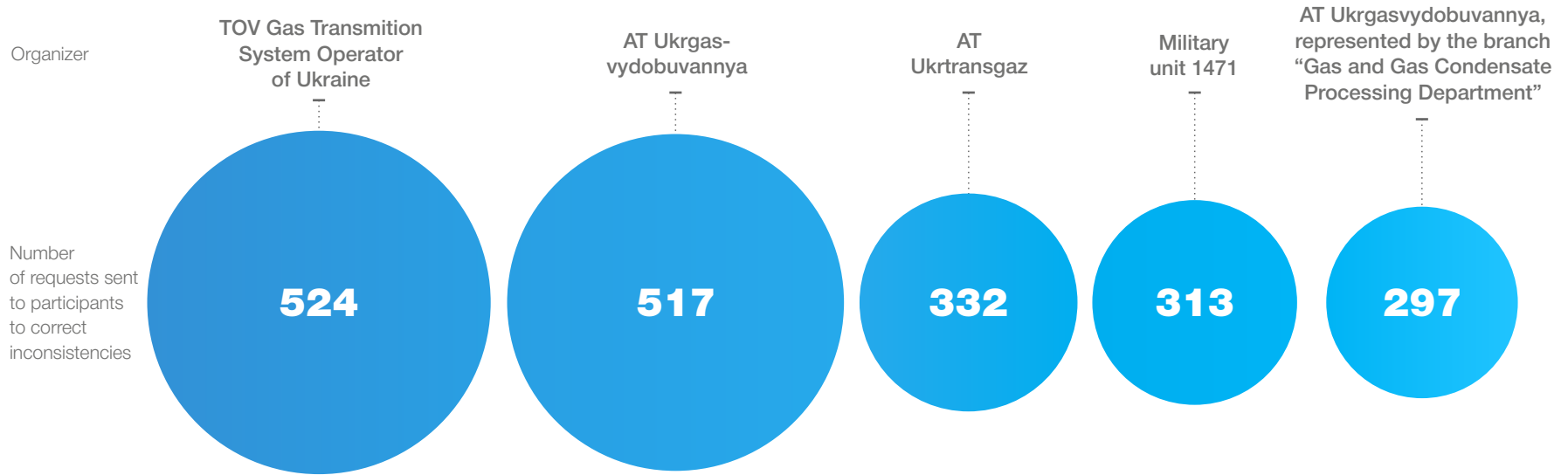
At the same time, 62% of participants received 24 hours for correction even more rarely regarding all the lots in which they participated — less often than in every fourth.

The more often participants take part in procurement in general, the more likely they are to receive 24 hours to eliminate inconsistencies. We were unable to identify a significant influence of other factors on this indicator.



Procuring entities that provided 24 hours for error correction

Leading procuring entities in terms of the number of requests sent to correct errors



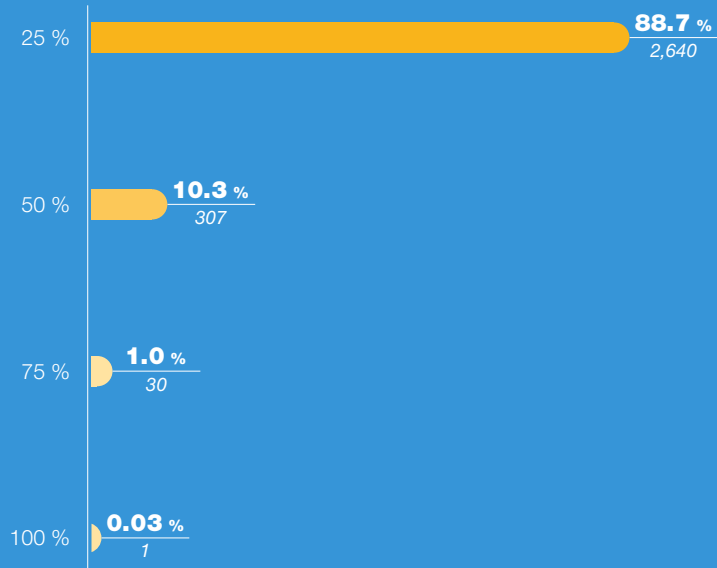
We focused only on those procuring entities that often conducted above-threshold procurement during the year under study. These are the procuring entities that announced at least 12 such procurement transactions in a year (at the rate of one procurement per month).

There were 4,388 such procuring entities during the study period. 68% of them (2,968), at least once gave the participant 24 hours to correct inconsistencies.

Most of the requests to eliminate inconsistencies were sent by TOV Gas Transmission System Operator of Ukraine — 524. Interestingly, four out of five procuring entities that most often gave an opportunity to correct inconsistencies were related to the gas market.

Share of lots with 24 hours among all above-threshold lots of the procuring entity

100 % / 2,978



Procuring entities rarely have lots in which they give participants 24 hours for correction. For 89% of them, such lots accounted for less than a quarter of all their lots.

Here are the examples of ranges:

- 25% should be read as “0% to 25% inclusive”;
- 50% should be read as “25% (not inclusive) to 50% inclusive.”

It can be assumed that procurement for large amounts is mostly organized by more experienced procuring entities, who are better able to identify cases when it is necessary to give 24 hours for correction. However, if we analyze the correlation between for how much procuring entities announced procurement during the year and how often they provided 24 hours to correct errors, the interdependence will be of average strength (correlation 0.4729).

However, there is a relatively strong correlation between how often procuring entities usually announce above-threshold procurement and how often they provide 24 hours to eliminate inconsistencies (correlation 0.6406).

Conclusion: as well as in the case of participants, the frequency of providing 24 hours for error correction by procuring entities is primarily affected by how often these procuring entities usually announce above-threshold procurement.

2/3 of procuring entities who often conduct above-threshold procurement give participants 24 hours for error correction.

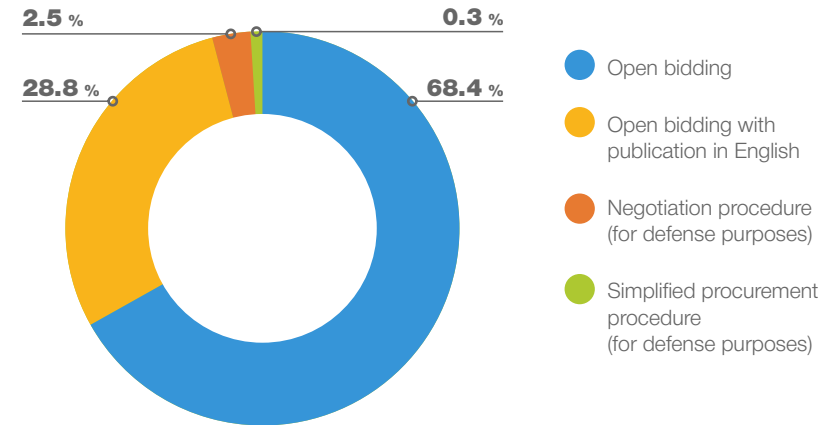
Lots with 24 hours to correct errors

Procuring entities most often requested to eliminate inconsistencies in open bidding (68% of all lots with 24 hours for correction) and open bidding with publication in English (29%).

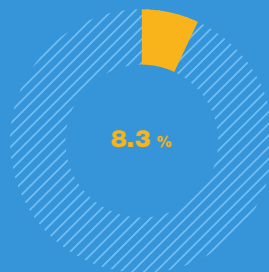
At the same time, lots with 24 hours for correction in open bidding accounted for almost every tenth lot of all announced open bidding during this period (8%), and for open bidding with publication in English — almost every fifth (18%).

Since January 2021, procuring entities in Prozorro have started applying a new simplified procurement procedure, which replaced the negotiation procedure for defense needs. Simplified procedure lots with 24 hours for correction accounted for only 0.3% of all lots with 24 hours for correction, and for a third of all simplified procedure lots announced during this period.

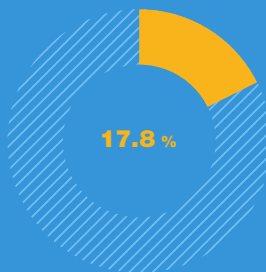
Procurement transactions where procuring entities gave participants 24 hours to correct errors



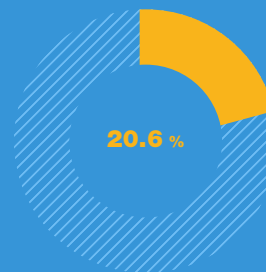
Share of lots with 24 hours for correction among all announced procurement transactions of the same type



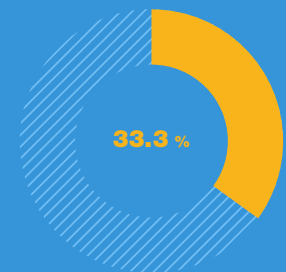
Open bidding



Open bidding with publication in English



Negotiation procedure (for defense purposes)



Simplified procurement procedure (for defense purposes)

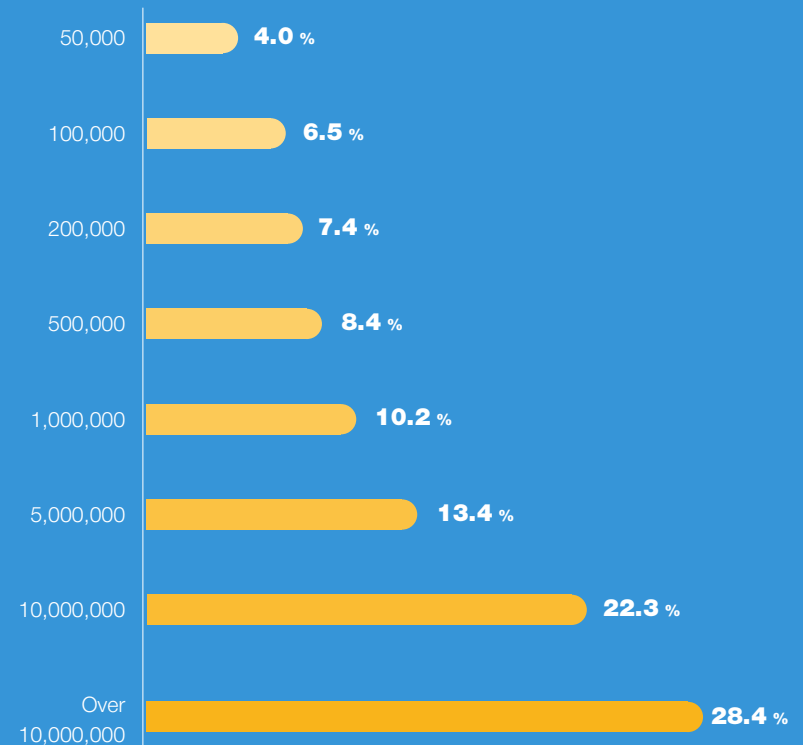
In general, in open bidding with publication in English and in a simplified procedure, lots with 24 hours for error correction occur disproportionately often compared to how many such lots are announced in total.

We also found that procuring entities are significantly more likely to give 24 hours for correction to lots with a higher expected cost. If in procurement with an expected cost of up to UAH 200,000, procuring entities provided 24 hours to correct errors only in each 20th lot (6%), then in procurement with an expected cost of more than UAH 1 mln — in every fifth (21%).

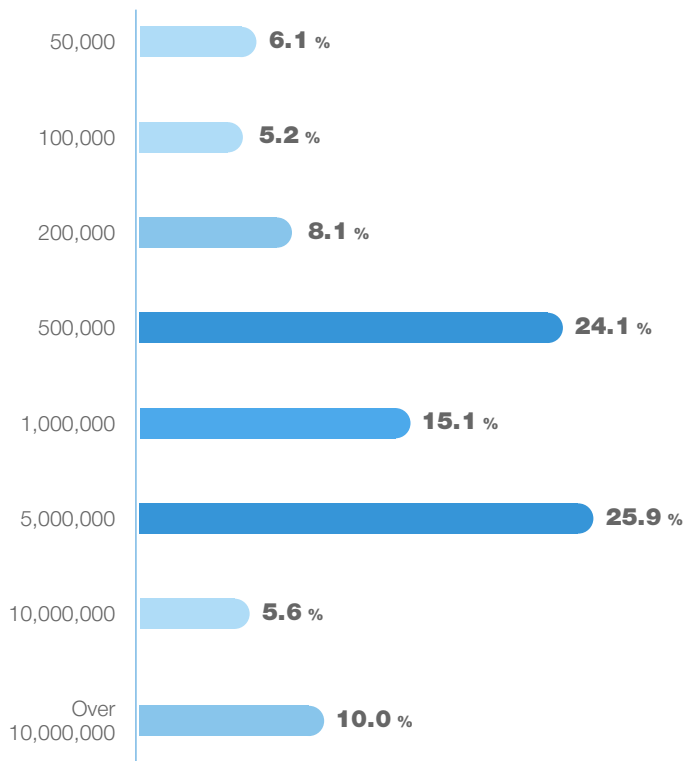
Here are the examples of ranges:

- 50,000 should be read as “0 (exclusive) to 50,000 inclusive.”
- UAH 100,000 should be read as “50,000 (not inclusive) to 100,000 inclusive.”

Share of lots with 24 hours for correction among all announced lots of a certain scope



Share of lots with 24 hours for correction among all lots with 24 hours for correction



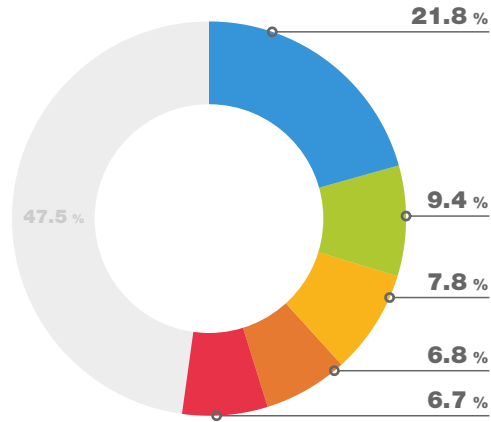
If to take all lots with 24 hours for error correction for 100%, then most of them are lots with an expected cost of UAH 200,000 to 500,000 and from UAH 1 mln to 5 mln (a total of 50%).

Since procuring entities often provide participants with 24 hours to correct errors in more expensive lots, it is logical that this happens more often in procurement of construction works and petroleum products. Among the lots with 24 hours for correction, lots with procurement of construction works accounted for 22% *by quantity*. This is followed by procurement of petroleum products (9%) and food (8%).

Lots with 24 hours for correction averaged 0.7% from all lots within its CPV subsection, however, there were exceptions. The largest share among all its lots by quantity accounted for lots with 24 hours for correction in the CPV subsection “Services related to the oil and gas industry” (4.5%) and “Hotel, restaurant, and retail services” (3.1%).

For the procurement of services related to the oil and gas industry, this quantity was provided only by one procurement entity, AT Ukrigasvydobuvannya, which is generally one of the leaders in providing participants with 24 hours to correct errors.

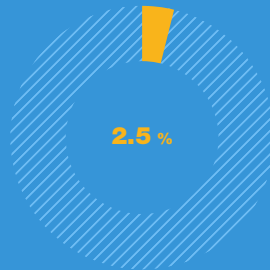
Share of all lots with 24 hours for correction **by quantity**



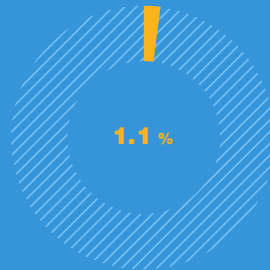
- 45000000-7 Construction works and maintenance
- 09000000-3 Petroleum products, fuel, electricity, and other energy sources
- 15000000-8 Food, beverages, tobacco, and related products
- 50000000-5 Repair and technical maintenance services
- 33000000-0 Medical equipment, pharmaceutical products, and personal care products
- Other CPV subsections

For the procurement of “Hotel, restaurant, and retail services,” this quantity was provided by 233 various procuring entities, mainly administrations, departments, and educational institutions.

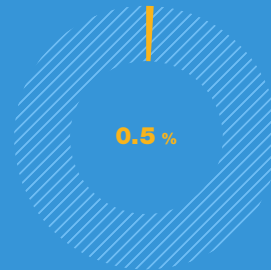
Share of all lots of the same CPV subsection **by quantity**



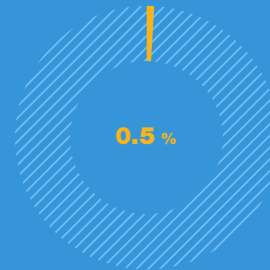
45000000-7
Construction works and maintenance



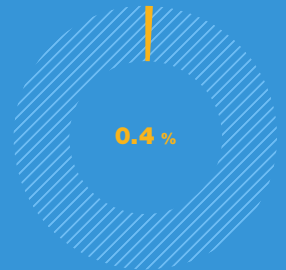
09000000-3
Petroleum products, fuel, electricity, and other energy sources



15000000-8
Food, beverages, tobacco, and related products

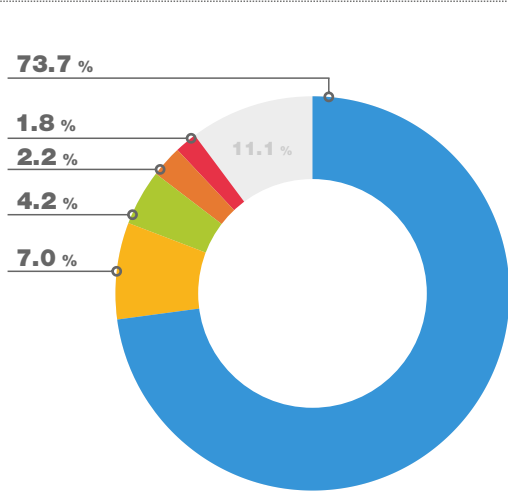


50000000-5
Repair and technical maintenance services



33000000-0
Medical equipment, pharmaceutical products, and personal care products

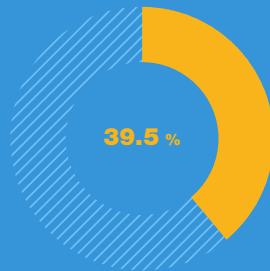
Share of all lots with 24 hours for correction by amount



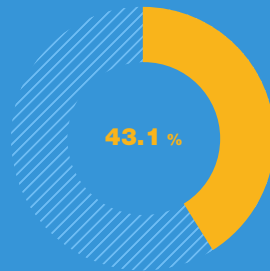
- 45000000-7 Construction works and maintenance
- 63000000-9 Additional and auxiliary transport services; travel agency services
- 09000000-3 Petroleum products, fuel, electricity, and other energy sources
- 50000000-5 Repair and technical maintenance services
- 33000000-0 Medical equipment, pharmaceutical products, and personal care products
- Other CPV subsections

Among the lots with 24 hours for error correction, lots with procurement of construction works accounted for 74% *by amount*. Unexpectedly, additional and auxiliary transport services ranked second (7% in amount), followed by procurement of petroleum products (4%).

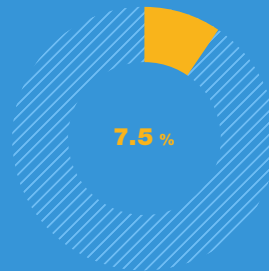
Share of all lots of the same CPV subsection by amount



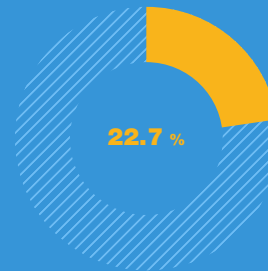
45000000-7
Construction works and maintenance



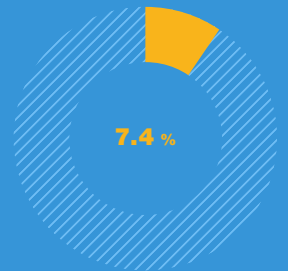
63000000-9
Additional and auxiliary transport services; travel agency services



09000000-3
Petroleum products, fuel, electricity, and other energy sources



50000000-5
Repair and technical maintenance services



33000000-0
Medical equipment, pharmaceutical products, and personal care products

Interestingly, lots with 24 hours for error correction in nine CPV subsections³⁴ of the total 46 accounted for 20% to 40% of the total amount of the expected cost of all lots in these CPV divisions. At the same time, by quantity, the same lots, accounted for only 1.4% of all lots in these CPV subsections. This once again confirms the point that more often procurement entities request to correct inconsistencies in lots with a higher expected cost.

The largest share among all their lots by amount accounted for lots with 24 hours for correction in the CPV subsection “Additional and auxiliary transport services” (43%). Quite often, the procuring entities who provided such a share are road services (13 procuring entities out of 43).

The connection between the high expected cost of a lot and the frequency of providing 24 hours for correction can be explained by the fact that procurement with a higher expected cost can be more “complex” in the context of documents that need to be prepared. In particular, this applies to construction works. The more documents you need to submit and the more complex the process of preparing them is, the more likely the participant is to make a mistake.

Conclusion: the largest number of lots with 24 hours to correct errors occurs in open bidding. However, in open bidding with publication in English and in simplified bidding using an electronic procurement system, procurement entities give participants 24 hours for correction disproportionately often in reference to the total number of such lots.

Procuring entities often give the opportunity to correct the bid in lots with a higher expected cost. Most often, both in terms of amount and quantity, this happens in lots for the procurement of construction works.

34. 45000000-7 Construction works and maintenance, 63000000-9 Additional and auxiliary transport services; travel agency services, 50000000-5 Repair and maintenance services, 71000000-8 Architectural, construction, engineering, and inspection services, 90000000-7 Services in the areas of wastewater and garbage management, sanitation and environmental services, 79000000-4 Business services: legal, marketing, consulting, HR, printing, and security, 76000000-3 Services related to the oil and gas industry, 43000000-3 Mining and construction equipment



SECTION 3

SURVEYING PROCURING ENTITIES AND BUSINESS IN PROZORRO

To confirm or refute certain issues that may be related to the 24-hour error correction functionality, we conducted an online survey in collaboration with four electronic platforms — Zakupki.prom.ua, SmartTender, E-Tender, and Open Tenders.online and provided eight questions to participants and eight questions to procuring entities.

- **Warning:** our online survey cannot be considered representative. In other words, we cannot say that the opinion of our respondents is shared by all procuring entities and participants in Prozorro.

In total, we received responses from 464 procuring entities and 494 business representatives in Prozorro.³⁵ The majority of respondents had little experience in providing/receiving 24 hours to correct inconsistencies: ≈48% of participants and procuring entities encountered 24 hours for correction to 10 times in the past year, while ≈46% of respondents from both groups did not encounter them at all.

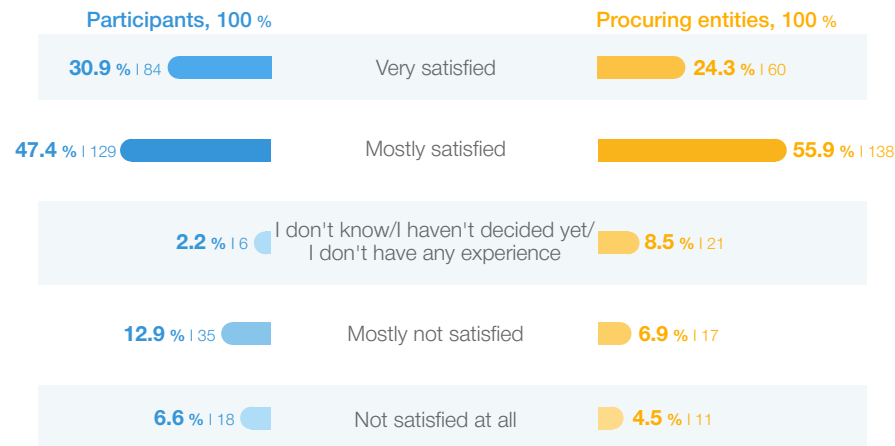
The majority of participating respondents previously took part in pre-threshold (83%) and above-threshold (68%) competitive procurement transactions.

The majority of respondents among procuring entities organized pre-threshold non-competitive procurement (68%), as well as pre-threshold (75%) and above-threshold (70%) competitive procurement transactions.

³⁵ 1% belongs to the "other" category. In this category, respondents indicated mainly "Procuring entity and participant"

Satisfaction with the 24-hour error correction functionality

Satisfaction with the 24-hour error correction functionality among those who had relevant experience



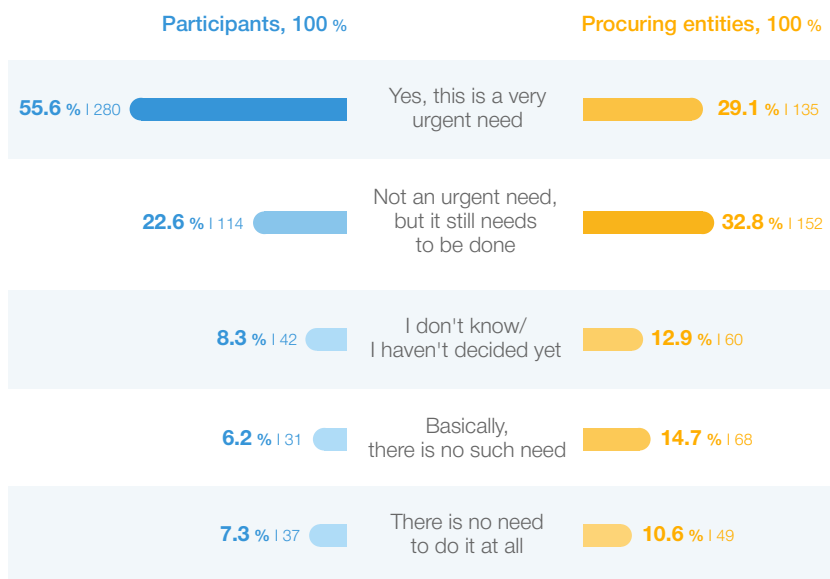
Majority of respondents (73% participants and 84% procuring entities) who do not have experience with 24 hours of error correction, when asked about their satisfaction with this functionality, chose the answer "I don't know/I haven't decided yet/I don't have any experience." Therefore, in the infographic, we showed the answers of only those who had such experience.

The results show that 78% participants and 80% procuring entities are very satisfied or mostly satisfied with the 24-hour error correction functionality.

Conclusion: both procuring entities and participants are mostly satisfied with the 24-hour error correction functionality.

24-hour error correction functionality and simplified procurement

Is it necessary, according to respondents, to introduce a 24-hour mechanism for error correction in simplified procurement



Most of the participants (78%) and procuring entities (62%) agreed that a 24-hour correction mechanism should also be introduced in simplified procurement. Procuring entities are less supportive of such a proposal, perhaps, because they are more concerned about whether such a step will prolong the duration of simplified procurement.

We did not find any significant differences in the responses of respondents with and without experience in simplified procurement.

Conclusion: the majority of respondents supported the idea of introducing 24 hours to correct errors in simplified procurement. Such an offer can be relevant and save a lot of money, given that in the first five months of its existence, simplified procurement accounted for 50% of all competitive lots in Prozorro, being organized at least once by 78% of procuring entities, and 60% of all participants in competitive procurement took part in these lots.³⁶

In 2020, simplified procurement lasted an average of 25 days, and some procuring entities and participants considered them too long in time.³⁷ However, on June 3, 2021, the Verkhovna Rada of Ukraine adopted new amendments to the Law,³⁸ which should reduce the duration of simplified procurement, and therefore this problem can be avoided.

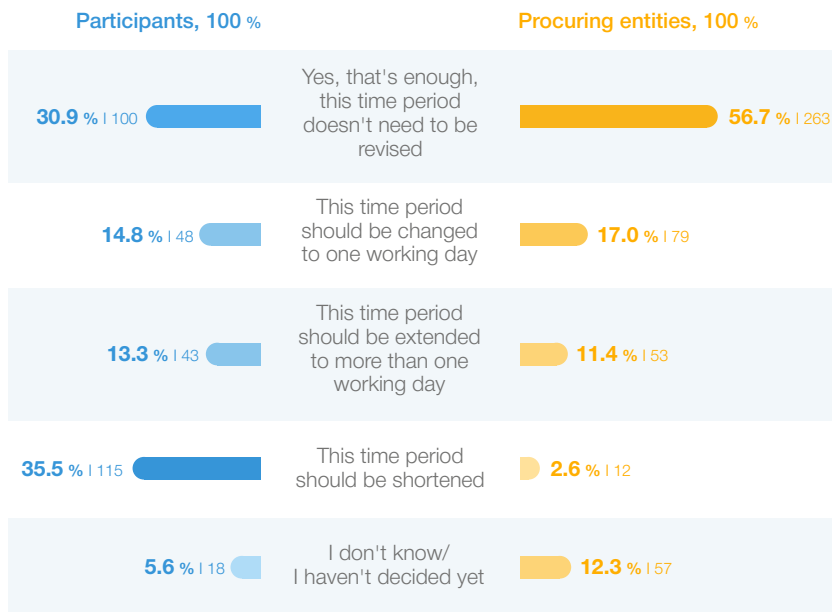
36. You can learn more about simplified procurement in our study "Non-Simplified Procurement: Procuring Entities' and Business' Impressions": bit.ly/SP-report

37. You can learn more about simplified procurement in our study "Non-Simplified Procurement: Procuring Entities' and Business' Impressions": bit.ly/SP-report

38. bit.ly/zminy_v_zakoni

Is there enough time to correct inconsistencies?

Do participants have enough time to correct inconsistencies



We asked the respondents if, in their opinion, 24 hours is enough to correct inconsistencies in the tender documentation. Most procuring entities (57%) believe that this period is sufficient, and 17% favored increasing it to one working day.

But the participants' responses were divided. The highest number of votes (36%) respondents gave for reducing the period. Perhaps this is due to the fact that they quickly eliminated errors that procuring entities found in their documents confirming the right to sign and meet the qualification criteria, and would like to

complete the procurement and sign the contract as soon as possible. Another 31% of participants replied that 24 hours was enough, and 28% of respondents believe that this period should be extended.

If you analyze the responses of only those participants who have already been given 24 hours to correct errors, the results will change slightly:

- 37% favor reducing the period (36% among all participants);
- 25% agree that this period is sufficient (31% among all participants);
- 34% propose to increase this period (28% among all participants).

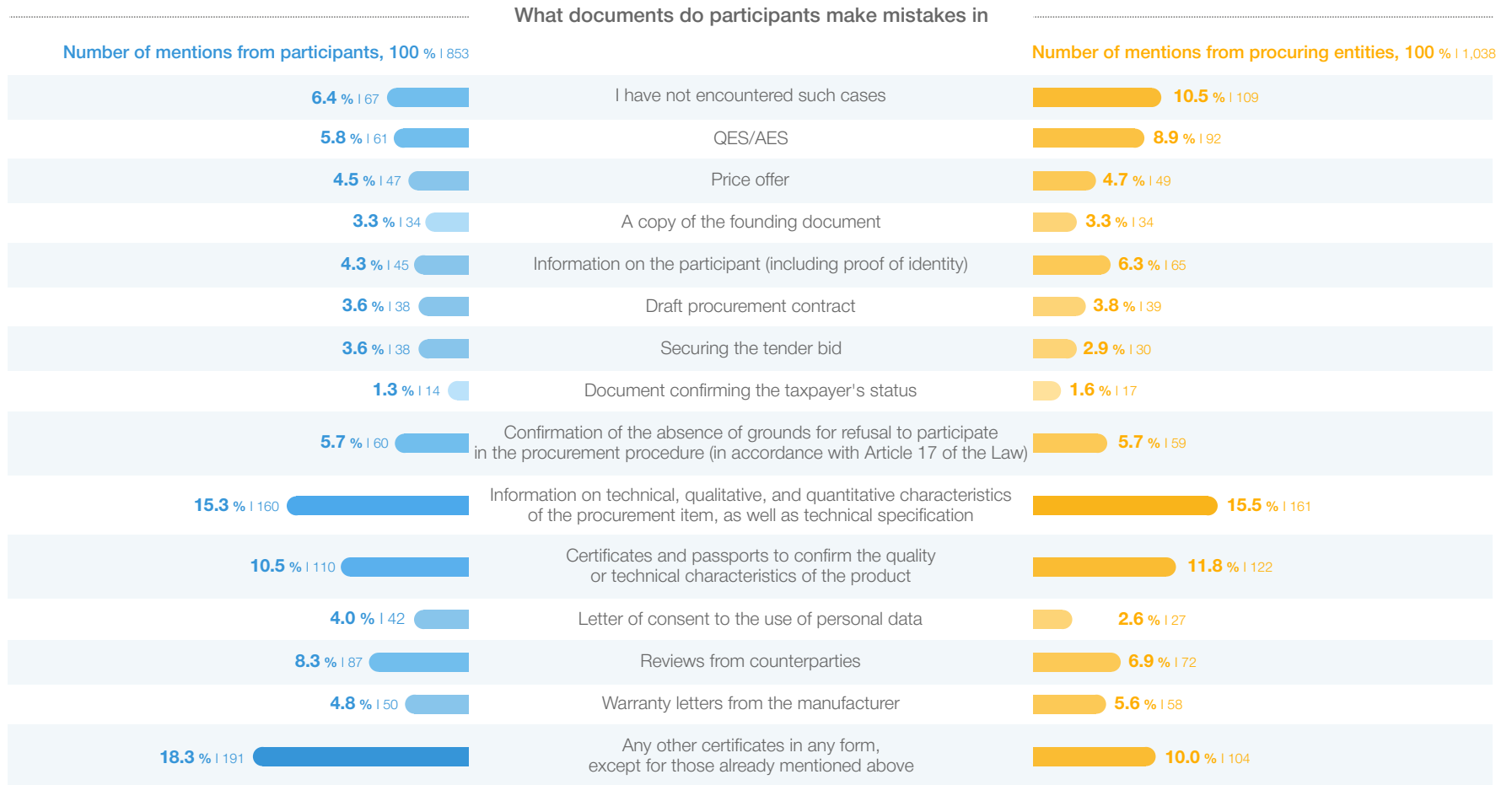
In other words, the share of those who want to increase the period for correcting errors is slightly higher.

Unfortunately, we made a mistake when compiling the questionnaire, and out of a total of 494 responses from participants to this question, we can only consider 324.

Conclusion: there is no consensus among participants on whether 24 hours is enough to correct inconsistencies. 62% of them would either shorten this period or not change it. At the same time, a third of participants believe that it should be extended.

A compromise could be a decision to extend the 24-hour period to one business day and at the same time allow the participant to terminate it earlier on their own initiative, if they are sure that they have already uploaded the updated documents to Prozorro.

What documents do participants make mistakes in



Only 6% of participants stated that they did not make mistakes in their tender bid, and only 11% of procuring entities claim that participants do not make mistakes in

their procurement. Thus, an error-free tender bid can be considered the exception in public procurement rather than the rule.

All other participants chose each on average two types of documents from the proposed list in which they had made mistakes. Procuring entities selected an average of three documents in which their participants committed inconsistencies.

Most often, from our list, participants made mistakes in *“Any other certificates in any form, except for those already mentioned above.”* This item was marked by almost every fifth interviewed participant. The next are *“Information on technical, qualitative, and quantitative characteristics of the procurement item, as well as technical specification”* (marked by every sixth participant) and *“Certificates and passports to confirm the quality or technical characteristics of the product”* (marked by each tenth participant).

Interestingly, procuring entities also provided very similar answers. In other words, the first and second groups of respondents mostly had the same opinions about which documents most often contained errors.

Participants and procuring entities could mark from one to 15 options.



Conclusion: from January to May 2021, procuring entities announced an average of 23,000 to 40,000 above-threshold procurement transactions per month, and therefore it is logical to assume that at least once in all the submitted documents, someone did make a mistake. Therefore, it is not surprising that with different frequency, respondents mentioned all the documents listed by us as documents in which they make mistakes.

Given this, it can be assumed that the sphere of public procurement would benefit if the list of documents that can be corrected was extended as much as possible. In particular, it is unlikely that correcting errors in documents in accordance with Article 17 of the Law will pose a threat to such procurement principles as fair competition and maximum savings.

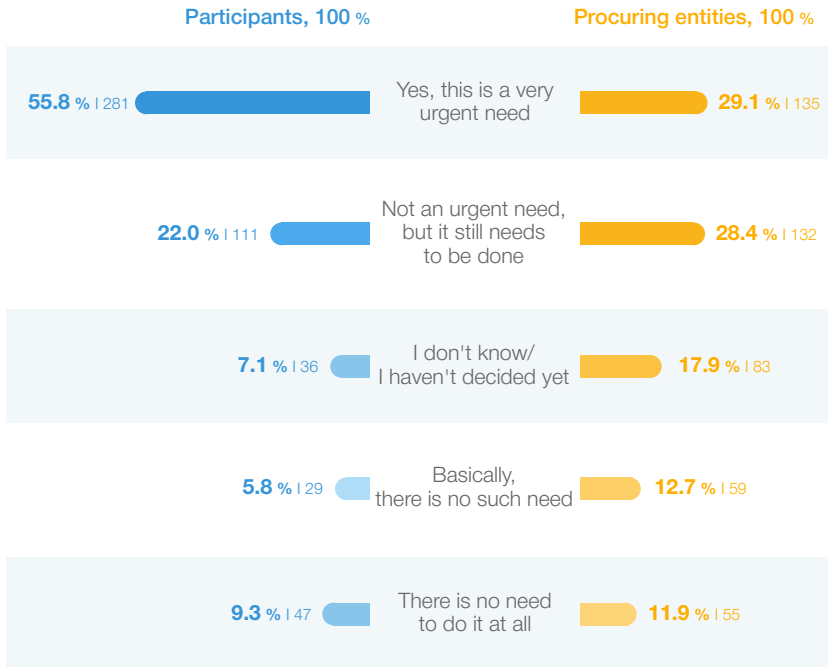
At the same time, it should be considered that the greater number of documents, where participants will be able to correct errors (or upload these documents), the greater the additional strain on procuring entities. In addition, it is important to determine in which documents error correction may negatively affect competition and in which not.

Most often, errors occur in certificates in any form, information on technical, qualitative, and quantitative characteristics, as well as certificates and passports to confirm quality.

Certificates in any form are difficult to spell out in the Law in such a way as to provide for all possible of them. Therefore, if it is decided that it is necessary to extend the list of documents subject to error correction, it would probably be more expedient to list in the Law only those documents that are prohibited from being changed.

Is it necessary to extend the list of documents which allow to correct inconsistencies

Is it necessary to extend the list of documents which allow to correct inconsistencies



Most of the participants and procuring entities were in favor of extending the list of documents in which inconsistencies can be corrected. Compared to procuring entities, there are fewer participants who have not decided yet (7%), and 78% of them support this idea. Less than in the case of participants, but most procuring entities also supported this proposal (58%), and almost every fifth still has not decided (18%).

If we analyze the answers to this question only among those participants who already have the experience of 24 hours for error correction, the results will remain almost unchanged. If you also look at procuring entities' responses, then 59% of them support this idea (58% among all procuring entities), and 29% are against it (25% among all procuring entities).

It is possible that procuring entities with the experience of 24-hour error correction are slightly more opposed to extending the list of documents to be corrected than all procuring entities, as this may create more additional work or new procurement risks for them.

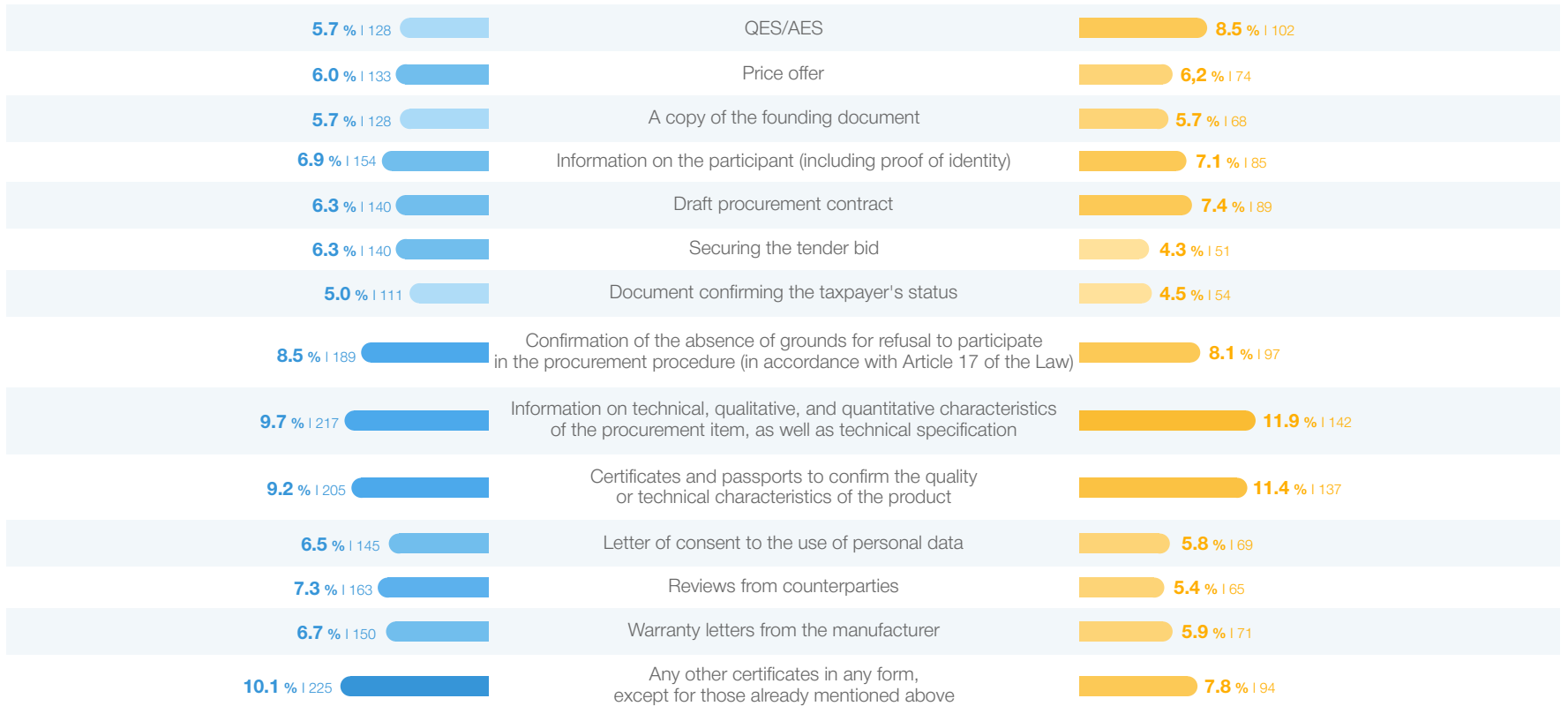
We also asked what specific documents, in the opinion of respondents, should be allowed to be corrected. We accepted answers to this question only from those respondents who generally supported this idea.

The answers to this question were more proportionate compared to the question about which documents most often contained errors. If in the question about errors, each of the options received from 1.3% to 18.3%, then in this question — from 4.3% to 11.9%. In other words, the respondents showed less unanimity.

What documents should be allowed to be corrected (incl. uploaded) during the 24-hour correction period

Number of mentions from participants, 100 % | 2,228

Number of mentions from procuring entities, 100 % | 1,198



However, the following documents received the greatest support among the participants:

- any other certificates in any form, except for those already mentioned above (10.1%)
- information on technical, qualitative, and quantitative characteristics of the procurement item, as well as technical specification (9.7%)
- certificates and passports to confirm the quality or technical characteristics of the product (9.2%)

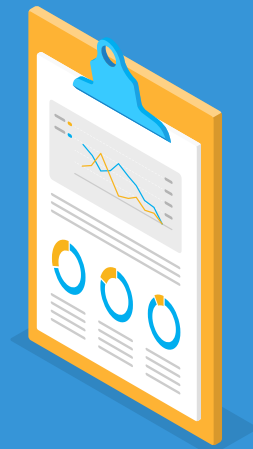
Among procuring entities, the following answers received the greatest support:

- information on technical, qualitative, and quantitative characteristics of the procurement item, as well as technical specification (11.9%)
- certificates and passports to confirm the quality or technical characteristics of the product (11.4%)
- QES/AES (8.5%)

Висновок: procuring entities were more reserved compared to participants about whether to extend the list of documents for correction. However, the majority, like most of the participants, supported this idea.

Respondents did not show unanimity on which documents should be allowed to be corrected. It seems that there are different cases in which each of the possible documents may contain an error.

Both participants and procuring entities expressed the greatest interest in allowing inconsistencies to be corrected in information on technical, qualitative, and quantitative characteristics of the procurement item, technical specification, as well as certificates and passports to confirm the quality or technical characteristics of the product.



CONCLUSIONS

During the first year of operation, the 24-hour error correction functionality helped save the country at least UAH 2.25 bln. This was achieved despite the fact that only in 46% of all cases of providing 24 hours for correction, participants did make changes and were awarded, and the Law is rather limited and allows to make changes only in two cases: in documents confirming the right to sign and meeting the qualification criteria. The amount saved is comparable to taxpayers' expenses for the State Management of Affairs in 2021, which ensures the activity of the President of Ukraine, the National Security and Defense Council of Ukraine, and other subsidiary bodies.³⁹

Relatively many participants make mistakes in documents confirming the qualification criteria and the right to sign, but not very often. 40% of all procuring entities in above-threshold procurement at least once managed to provide with them 28% of all participants in these procurement transactions in 15% of above-threshold lots.

Participants mostly used the opportunity to make changes to the bid if procuring entities gave it (84% of cases). However, slightly less than half of them (46%) were awarded.

We do not have a comprehensive answer to the question of why individual participants do not make changes to the bid. However, this may be affected by the need to make changes on weekends, a lack of understanding of how the 24-hour functionality for error correction works, violations on the part of the procuring entity, and so on.

Procuring entities are significantly more likely to detect errors in documents confirming qualification criteria than in documents confirming the right to sign (90% of mentions versus 9% in procuring entities' requirements). However, also

quite often (17% of mentions), procuring entities asked to correct inconsistencies that most likely are not allowed to be corrected. In particular, this indicates that there is a request for a wider list of documents that can be corrected.

The survey also confirmed this opinion. Most often, errors occur in certificates in any form, information on technical, qualitative, and quantitative characteristics, as well as certificates and passports to confirm quality. However, participants and procuring entities would like the Law to allow them to correct inconsistencies in other documents as well.

The higher the expected cost of the lot, the more likely it is that the procuring entity will provide the participant with 24 hours to correct inconsistencies. In addition, procuring entities are more likely to provide 24 hours for error correction in open bidding with publication in English and simplified bidding using an electronic procurement system than in open bidding (without publication in English).

The majority of procuring entities and participants (80% and 78%, respectively) are either very satisfied or mostly satisfied with the functionality of 24-hour error correction. They also mostly agree (62% and 78%, respectively) that the possibility of making changes to the bid should also be introduced in simplified procurement.

Participants were divided into almost three identical camps over the question whether it was necessary to review the period for correcting inconsistencies. About a third of them believe that it should be reduced, a third are in favor of increasing this period, and another third believe that it should be left as it is now. A compromise could be to extend the 24-hour period to one working day and allow participants to terminate it earlier on their own initiative, if they have already uploaded the updated documents.

39. Decree of the President of Ukraine "On State Management of Affairs" of February 23, 2000, No. 278: bit.ly/3vT1wae

Transparency International Ukraine
Sichovych Striltsiv st. 37—41, 5th floor
Kyiv, Ukraine, 04053
tel.: +38 044 360 52 42
website: ti-ukraine.org
e-mail: office@ti-ukraine.org