

# Increasing the Integrity of Public Procurement in Moldova

## Inception Report

SUMMARY

*Partnership for Transparency and IDIS „Viitorul”*

July 2021



## Increasing the Integrity of Public Procurement in Moldova

### 0. Abbreviations and Acronyms

AGER	Association for Efficient and Responsible Governance
AIM	Alliance of Small and Medium Businesses
AmCham	American Chamber of Commerce
ANSC	Agenția Națională pentru Soluționarea Contestațiilor (see also NASC)
CA	Contracting Authorities
CC	Competition Council
CSOs	Civil Society Organizations
CCPPH	Center for Centralized Public Procurement in Healthcare (see also CAPCS)
CLDP	Commercial Law Development Program
CoA	Court of Accounts
DRL	US Department of State Bureau of Democracy, Human Rights and Labor
EBRD	European Bank for Reconstruction and Development
ESPD	European Single Procurement Document
EO	Economic Operator
FI	Financial Inspectorate
IDIS	Institutul pentru Dezvoltare și Inițiative Sociale „Viitorul”
MOF	Ministry of Finance
NAC	National Anticorruption Centre
NASC	National Agency for Solving Complaints (see also ANSC)
NGOs	Non-government Organizations
NIA	National Integrity Authority
PP	Public Procurement
PPL	Public Procurement Law
PPA	Public Procurement Agency
PTF	Partnership for Transparency Fund
SRA	State Road Administration
SWOT	Strengths, Weaknesses, Opportunities, and Threats
TI	Transparency International
UNDP	United Nations Development Programme

*This document is a summary of the Inception Report and Implementation Plan developed for the project to increase the integrity in public procurement in Moldova. It is based on an intensive and*

*extensive process of desk reviews and bringing together the findings of many existing reports, studies, and documents. The project team carried out additional studies and surveys rounded out by interviews and consultations with key government agencies, as well as bilateral and multilateral organizations active in Moldova.*

## **1. Executive Summary**

In September 2020, the Partnership for Transparency (PTF), in partnership with the Institute for Development and Social Initiatives (IDIS Viitorul) in Moldova, embarked on a project to enhance the capacity of civil society organizations (CSOs) and journalists to engage in informed and responsible monitoring of public procurement.

The project, which will run for a little over two years, aims to enhance the transparency, fairness, and effectiveness of the public procurement process in Moldova through training and empowering civil society actors and investigative journalists to engage in informed and responsible monitoring of public procurement. An in-depth training curriculum developed by the project team will equip the participants with the necessary knowledge, skills, and tools to identify irregularities at various stages of the procurement process, analyze data, and evaluate risks of abuse that merit investigation by appropriate and relevant control and enforcement bodies. In interactive sessions, and with the help of case studies, the training will also provide the participants with tools for communicating with procurement and control bodies to improve the response rate and corrective actions taken by these bodies. A planned period of support funding and technical assistance for a select number of organizations who complete the training and qualify for the next phase will enable them to apply the competencies acquired in the training.

A small number of experienced and committed CSOs and investigative journalists are already involved in monitoring public procurement in Moldova. The project aims to broaden the pool of such monitors and to deepen the skills of those already engaged in monitoring, particularly in the use of tools that have been developed since the last in-depth training provided by the local project partner, IDIS Viitorul, in 2018. Such tools include an updated version of the OpenMoney platform, Tender.Health, Revizia.md, and a website with red flag indicators. In late April 2021, the Ministry of Finance in Moldova launched the pilot Business Intelligence (BI) Module, which will add to the tools available to all entities involved in monitoring procurement as it is tested for the balance of the year.

Despite earlier concerns that the MTender system might be abandoned in favor of a new system, a move that would have made it necessary to train CSOs and investigative journalists without access to the e-procurement platform as a tool for monitoring, most of the uncertainty around the future of the e-procurement platform MTender has been removed. All signs indicate that the Ministry of Finance is committed to retaining, upgrading, and expanding the current system. Concerns remain, however, about the overall political instability in Moldova which could negatively affect the results of the project.

The training of public procurement staff in Contracting Authorities that was initiated by the Public Procurement Agency (PPA) with technical assistance from the Commercial Law Development Program (CLDP) of the US Department of Commerce will be an important step in upgrading the skill sets of those tasked with handling public procurement. The institution of a formal certification process for those trained will lead to the much-needed professionalization of the process as well as provide a career track for public sector staff involved in managing public procurement.

Over the course of reviewing the challenges and opportunities for enhancing the process and outcomes of public procurement in Moldova, it became clear that many Economic Operators (EOs) refrain from bidding on procurement opportunities due in part to their lack of clear understanding of the requirements—legal, regulatory, procedural—and to their lack of confidence in the fairness and transparency of the review and award process. Thus, the project will include EOs in the parts of the training that are relevant for them, with the goal of encouraging greater participation in the procurement marketplace. In addition, a Roundtable dialogue is planned among key stakeholders in procurement, i.e., Contracting Authorities, EOs, CSOs, and investigative journalists to increase trust and promote Integrity Pacts and codes of conduct as tools to enhance transparency and fairness. While not a planned outcome of this project, it is hoped that the Roundtable will lead to piloting of at least one Integrity Pact and perhaps lead to the formation of a long-term multi-stakeholder group to continue to guide and support improvement efforts.

If COVID-related restrictions on travel and size of in-person gatherings remain an issue in autumn 2021 when the training is due to begin, there is likely to be a change in the mode of delivery, making it necessary to hold all or part of the training in an online format rather than face-to-face.

## **2. Methodology of Data Collection**

**2.1 Methodology |** During the Inception Phase, the following methodological approach was pursued:

1. Conducted a thorough desk review of all relevant documents available.
2. Conducted twenty-three semi-structured qualitative interviews with twenty-seven stakeholders: consultation with central and local government agencies such as the Ministry of Finance (MoF), Public Procurement Agency (PPA), Court of Accounts (COA), European Bank for Reconstruction and Development (EBRD), World Bank, European Union (EU) Delegation, and Open Contracting Partnership (OCP), as well as international and Moldovan organizations such as Association for Efficient and Responsible Governance (AGER) and Transparency International (TI) Moldova. A number of these organizations were involved in the funding, design, and implementation of e-procurement systems and/or monitoring of procurement, including access platforms such as OpenMoney, Tender.Health, and Revizia.md.
3. Conducted one online survey about procurement monitoring training needs among 326 CSOs and journalists with seventy-nine responding.

### **2.2 Desk review of the following documents:**

1. Civil society organizations from the Republic of Moldova: Evolution, sustainability, capacities (Konrad Adenauer Stiftung, August 2019)
2. Procurement Monitoring Guide (IDIS, 2018)
3. Technical Assistance for Developing an e-Procurement system in the Republic of Moldova, Inception Report (European Dynamics, February 2020)

This review was augmented by analysis, papers, and surveys specifically conducted for this project.

## **3. Baseline Study: Analysis of Public Procurement and Civil Society Monitoring in Moldova**

### **3.1 Risk Assessment**

The objective of the risk analysis was to answer the following guiding questions:

- What are the most important risks in public procurement?
- Where and how should priorities be set for this project?

### 3.1.1 Risk Analysis Approaches

The sources detailed below follow different approaches to identifying and assessing risks:

1. Semi-structured *qualitative stakeholder interviews* provided background information on issues identified from the perspective of different stakeholders. In combination with the next section (3.2 Stakeholder Analysis), they can be used for a third approach of assessing risks based on an understanding of the position of different stakeholders involved in the procurement process.
2. The *analysis of risks* in public procurement conducted by IDIS identified risks during different stages of the procurement process. This analysis highlighted several top priority risk areas within almost all stages of procurement. According to the INTOSAI methodology applied ([www.intosai.org](http://www.intosai.org)), they are classified as “Extreme” and “High” Risks. Immediate attention and dedicated efforts are required for their management.

### 3.1.2 Most Important Risks in Public Procurement

Structured interviews carried out as part of the inception phase of this project, and a study conducted by IDIS, the most important risks are as follows:

**Extreme Risks** are associated mainly with actions or inactions by the Contracting Authorities (CA), including:

- 1) The CA may not provide timely and/or complete information to CSO representatives accepted as members of a procurement working group, such as the date, time, and place of the tender evaluation session.
- 2) The centralized procurement conducted by the Center for Centralized Public Procurement in Healthcare (CCPPH) has been conducted through the old e-procurement system that does not allow access to tender documentation, bids, and other documents (NOTE: As of 1 January 2021, procurements carried out by CCPPH have been incorporated in MTender system).
- 3) Conflicts of interest between CA public procurement working group members and one or more of the bidders are undisclosed and result in unethical behavior.
- 4) According to a PPA report on monitoring activity during 2020, 46% of CAs ignored PPA recommendations to correct illegalities/irregularities identified by the Agency and a further 15% only partially took action. [Microsoft Word - RAPORT PRIVIND EXERCITAREA ATRIBUÏILOR DE MONITORIZARE DE CĂȚRE AGENȚIA ACHIZIȚIIL PUBLICE Ă”N ANUL 2020.docx \(gov.md\)](#)
- 5) CAs are not penalized for breaking the PPL and/or other regulations, as PPA has no authority to sanction CAs for breaches of procurement legislation and regulation.
- 6) CAs do not report to the PPA for inclusion in the blacklist those contractors that have committed breaches in procurement rules.
- 7) There is a lack of professional training for staff of contracting agencies, which leads to errors in understanding and adhering to the rules and procedures for public procurement

**High Risks** identified require senior management attention and involve primarily deviations from good procurement practice and process. These include:

- 1) Failure to properly plan procurements
- 2) Splitting requirements to use less formal procurement methods

- 3) Improper description of requirements
- 4) Locking competent CSOs representatives out of the procurement
- 5) Support of non-competitive actions
- 6) Other failures to adhere to the law and regulation

**Other** identified medium and low risks help to round out the view of the shortfalls in the procurement process in Moldova.

The combined set of risks provided a framework for developing a curriculum for training CSOs and investigative journalists under this project aimed at understanding and addressing these identified problems. The listed risks make clear that for CSOs to perform their monitoring role effectively, the PPA should be more aggressive in demanding compliance by CAs with the existing procurement legislation, regulations, and procedures. However, the authority of the PPA is limited in sanctioning non-compliant CA, and the information available now through the MTender eProcurement system does not provide fast, reliable information on important aspects of procurement transactions.

Correcting structural and legal inadequacies in the Moldovan procurement system is beyond the scope of this project. However, training under the project will concentrate on these identified risks to ensure CSOs and investigative journalists are aware of where potential problems lie and can both identify and call attention to issues spotted through their monitoring activities.

Based on the analysis,<sup>1</sup> the following priorities apply to the context of this project:

- Lack of skills and resources among both CSOs and CAs, especially in local areas
- Lack of knowledge of and confidence in the system among EOs, resulting in low competitiveness of tenders

### 3.2 Procurement Stakeholders

The stakeholder analysis aimed to answer the following **guiding questions**:

- Who are the relevant players in public procurement and CSOs/ investigative journalist monitoring?
- What is their position in relation to public procurement and this project?

#### 3.2.1 Control Authorities

**Most Important Authorities Related to Public Procurement** | The key public entities for procurement in Moldova are summarized in the table below:

**Table 1: Key Authorities in Public Procurement**

<p><b>Ministry of Finance (MoF)</b> is responsible for ensuring a functional, efficient and transparent legal framework in the field of public procurement. MoF support for the project is essential to facilitate government entity involvement in project implementation and MoF is key to making improvements in the MTender system.</p> <p><b>State Treasury</b> is a General Directorate within the Ministry of Finance. It has minimal impact on the project but can cause significant delays in completing contract actions because of delayed registration of contracts due to lack of electronic system.</p> <p><b>Financial Inspectorate (FI)</b> under the Ministry of Finance is to ensure compliance with legislation on transactions that involve the national public budget. Contract actions are subject to review by the FI. CSOs may report systemic problems found through procurement monitoring to the FI.</p> <p><b>Public Procurement Agency (PPA)</b> is an administrative authority under the Ministry of Finance. Key responsibilities of the PPA affecting the project are: 1) Establishing, updating and maintaining the List of Debarred firms; 2) Monitoring the compliance of public procurement tenders with the national legislation and analysing the performance of the public</p>
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procurement system; and 3) Maintaining the official website for public procurement.

**National Agency for Solving Complaints (NASC)** handles complaints related to public procurement procedures. The Agency has seven counsellors tasked with the resolution of appeals, including the general director and his deputy. NASC does not have mechanisms to enforce the execution of their decisions, which sometimes are ignored.

**Court of Accounts (CoA)** is the supreme audit institution of the Republic of Moldova. Currently, the Court of Accounts is performing a compliance audit of procurement within all 9 existing Ministries, separately for each of the Ministries.

**National Anticorruption Center (NAC)** is tasked with optimizing the procurement process, developing the capacities of contracting authorities in conducting public procurement, preventing corruption in the field, and strengthening internal control procedures in public procurement processes. Together with the PPA and MoF the NAC is to develop a set of indicators for the PPA to collect statistical data on procurement.

**National Integrity Authority (NIA)** is responsible for resolving conflicts of interest and other wrongdoing by public officials or suspected breaches of integrity. At this time, the involvement of the NIA in the project appears to be minimal.

**Competition Council (CC)** is an autonomous authority, subordinated to the Parliament, which ensures the enforcement and observance of the legislation in the domain of competition, state aid, and advertising. While the CC has an interest in the overall system, it will have a minimal direct effect on the project.

**Center for Centralized Public Procurement in Health (CAPCS)** was established for the organization and functioning regulation of the Center for centralized public procurements in health and regulation of the purchase of medicines, other medical products and medical devices. The Center is one of two centralized contracting authorities and will likely be a target of CSO monitoring under the project.

**State Road Administration (SRA)** is a contracting authority responsible for the efficient management of financial resources allocated from the State Budget, Road Fund and external sources for rehabilitation, development, modernization and maintenance of the national public road network, according to policies and programs of the Ministry of Economy and Infrastructure. The SRA is expected to be a target for CSO monitoring under the project.

Table 2: SWOT Analysis of Authorities with Procurement-Related Mandates

Opportunities	Threats
<ul style="list-style-type: none"> <li>● <b>MTender:</b> An already existing e-procurement electronic system that can be improved and, its usage is already mandated by law (opportunity for CTIF, MoF, CAs, EOs and civil society organizations, monitors)</li> <li>● <b>PPA:</b> The legal framework (PPL, Contravention Code) could be amended to give PPA (or another competent control institution) the power to sanction persons who commit administrative contraventions by violating the rules for initiating and conducting public procurement procedures etc.</li> <li>● <b>PPA:</b> The overall situation in the system and the functioning of PPA in particular could be improved if it is enforced the usage of the electronic system by all contracting authorities and amended the legal framework in order to complete CAs to conduct SVPs in a transparent and regulated manner.</li> <li>● <b>MoF</b> could use the expertise of civil society and procurement experts to work on further adjustment of the secondary legislation to the PPL.</li> <li>● <b>ANSC</b> could develop and publish unified practices (with the support of civil society and procurement experts) following their experience in complaints settlement to create predictability and decrease of the unjustified complaints.</li> <li>● <b>PPA</b> could partner with civil society organizations to ensure more specialized training in public procurement, both the CAs and EOs.</li> <li>● <b>Legal and Regulatory Framework:</b> Continuous improvement of the legal and regulatory framework and harmonization with EU regulations (MF)</li> <li>● <b>MoF and PPA:</b> Orientation towards sustainable public procurement (MF and PPA).</li> <li>● <b>Capacity Building:</b> Opportunities for stakeholders, Ca and CSO to participate at programs, seminars, workshops (in country or abroad) with the participation with international experts specialized in public procurement.</li> <li>● <b>Exchange of information</b> and experience on best practices and regulations in the field of public procurement.</li> <li>● <b>Integrity Pacts:</b> PPA and CSOs in cooperation with selected EOs could promote the use of instruments to enhance transparency and integrity, such as the adoption of a code of ethics by all parties and pilot the use of Integrity Pacts in procurement projects. An Integrity Pact is an enforceable agreement between bidders and the government to procure in an ethical manner with a monitor (often a CSO) to ensure the terms of the Pact are followed.</li> </ul>	<ul style="list-style-type: none"> <li>● <b>Small value procurement:</b> PPA unofficially estimates that between 90 and 95% of public procurements are small value purchases (SVPs – up to 20000 MDL). Sometimes, as CoA has found, procurement is divided by CA into small direct procurement that would fit the SVP threshold. The conduct of SVPs is poorly regulated, and takes place outside the MTender threat for the integrity of CAs.)</li> <li>● <b>CoA</b> (Court of Accounts): conducts only occasionally audits specifically focused on public procurement.</li> <li>● <b>CoA:</b> audits prove that the phase of the execution of the PP contracts is unregulated and unmonitored, which poses a major threat for CAs</li> <li>● <b>State Treasury (ST):</b> Mechanism of mandatory contract registrations in PP by the State Treasury (ST) is unclear and confusing.</li> <li>● <b>NAI:</b> Specific competencies of National Authority for Integrity (NAI) in PP not expressly stipulated in legislation, except the fact that NASC counsellors must have not been previously investigated by NAI.</li> <li>● <b>NAI</b> is not mentioned altogether in the Sectoral anti-corruption plan in the sphere of PP for the year 2018-2020</li> <li>● <b>Financial Inspection (FI):</b> Specific competencies of FI in PP not expressly stipulated in law</li> <li>● <b>NAC:</b> Aside from its role in sectorial anti-corruption Sectorial plan, NAC has no role precisely defined in the PP system.</li> <li>● <b>NASC</b> currently does not use standards of the judicial practice of solving complaints in the public procurement system.</li> <li>● <b>NASC</b> has only very few (3) unified practices related to the filed appeals resulting in unpredictability of the complaints system both for CAs and Eos and leads to unjustified complaints</li> <li>● <b>CCPPH:</b> Although the CCPPH started to use again the MTender system for procurement in January 2021, there is not yet developed a separate module (within or outside MTender) tailored for CCPPH.</li> <li>● <b>SRA:</b> National regulatory framework does not clearly and in detail describe the status of the SRA as a contracting authority that performs centralized procurement.</li> </ul>

Source: IDIS Viitorul

### 3.2.2 Civil society actors

**Civil society organizations** (CSOs) in Moldova benefitting from this project are split into two main groups: First are the CSOs in Chisinau with solid organizational capacities, technical expertise, and national and international networks and sources of funding (Table 3). Second, there is a much larger group of local, community-based CSOs that, unlike the first group, are often focused on a certain



sector, such as education, or health. This group has much lower capacities, namely with regard to staff, technical expertise, and funding.

As far as the first group is concerned, there is an informal group that is loosely networking without a fixed structure under the rubric Tender.Health. They are occasionally consulted by government agencies for input on policy, legal, and institutional questions related to health procurement.

**Table 3: CSOs Involved in Public Procurement Monitoring**

<ol style="list-style-type: none"> <li>1. <b>AGER:</b> is periodically monitoring public procurement and publishing their findings in two different ways: as procurement monitoring reports and separately per procurement.</li> <li>2. <b>LEX 21:</b> is actively monitoring procurement in the north region of the country with more focus on Balti Municipality, both by publishing its findings on irregularities as well as by publishing monitoring reports. The most recent reports were presented in 2020.</li> <li>3. <b>Radio Orhei:</b> has monitored the procurement conducted by Orhei Municipality during 2018 and is publishing findings on irregularities in the procurement process of the Orhei Municipality from time to time on their news portal.</li> <li>4. <b>ADR Habitat:</b> is monitoring public procurement occasionally, mostly procurement of the Rezina City Hall and sometimes other local public authorities from the region.</li> <li>5. <b>AO Parinti solidari:</b> is mainly monitoring public procurement of food in schools and kindergartens. Also in cooperation with AGER they monitor some procurement related projects.</li> <li>6. <b>Positive Initiative is monitoring health procurement and delivery of health services in cooperation with CCPH</b></li> </ol>
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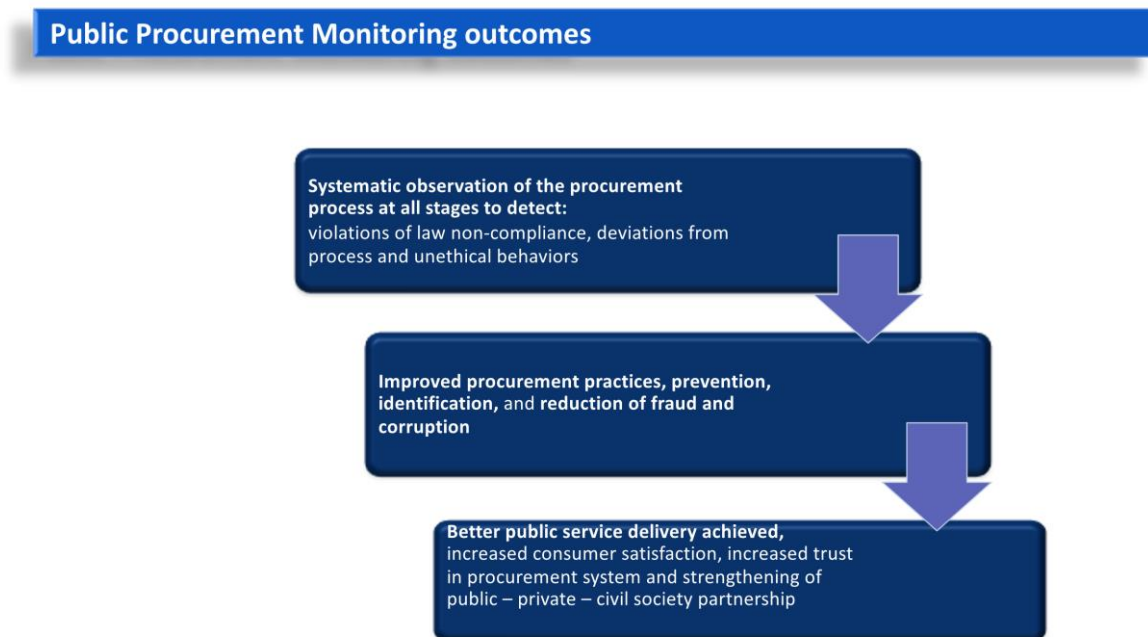
### 3.3 Training Needs

Specifying the training needs of project beneficiaries required defining: (i) what public procurement monitoring is; (ii) what the project objectives are; and (iii) how these objectives can be achieved.

- What is public procurement monitoring?
- What can it achieve?
- How can it be achieved?

Public procurement monitoring can be defined as a third-party observation, tracking, or oversight of the public procurement process. For the purposes of this project, public procurement monitoring includes the procurement process, as well as the monitoring of contract implementation/ delivery of goods and services procured. It can be carried out in different ways, with different tools, and at different levels. For instance, at the macro level, CSOs or investigative journalists could monitor a set of procurement awards and associated spending patterns and analyzes them in order to influence future legislation and government policies. Conversely, if CSOs or investigative journalists want to monitor at the micro level, they will concern themselves with specific public procurement processes (e.g., restricted or non-competitive awards) or specific stages of the procurement processes, identifying legal violations and/or warning signs (red flags) of potential fraud or corruption. When monitoring, CSOs and investigative journalists observe, review, analyze, disseminate, and discuss publicly available investigative data and information, which they report and follow. Below is an illustration of what successful public procurement monitoring can achieve:

Graph 2: Public Procurement Monitoring Outcomes



Source: Partnership for Transparency (PTF)

There are also other actors which carry out some form of monitoring. For instance, Contracting Authorities monitor contractors, suppliers, and service providers on a day-to-day basis. Meanwhile, government control entities (such as procurement regulatory agencies), conduct selective independent monitoring. All of these actors, and the types of monitoring they conduct, play a **complementary role** in making public procurement more efficient, transparent, and competitive.

Meeting the project's objectives, as outlined below in Table 4, requires providing training to CSOs already active or aiming to become active in public procurement monitoring and investigative journalists reporting or interested in reporting on public procurement-related topics. It also requires technical support to monitoring CSOs and investigative journalist organizations in the monitoring phase.

Based on the work conducted during the project inception phase, PTF and IDIS concluded that providing training only to these two groups was unlikely to achieve the full potential of public procurement monitoring. Consequently, a decision was made to adopt a more inclusive approach by inviting the private sector (EOs) to participate in parts of the training relevant to their role.

**Table 4: Project objectives**

<p><b>Objective 1:</b> Moldovan CSOs and investigative journalists are sufficiently equipped to conduct meaningful monitoring of procurement processes.</p> <p><b>Objective 2:</b> Procurement processes are appropriately monitored by Moldovan CSOs and investigative journalists, making use of the e-procurement system and other sources of information.</p> <p><b>Objective 3:</b> Findings and recommendations resulting from the monitoring activities of credible and professional CSOs and investigative journalists are taken seriously and acted upon by contracting entities, contractors, and government oversight and law enforcement entities, including the National Anti-Corruption Center.</p>
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The participation of this wider audience in the training will increase the capacity of all parties involved. It will highlight the role that CSOs and investigative journalists can play to prevent and/or identify risks in procurement and reduce potential fraud and corruption—all issues that represent a sizeable risk and potential cost for the EOs and civil society at large. This will contribute to increased transparency, efficiency, and compliance, boosting the confidence of EOs in the system and in the competence and objectivity of monitoring CSOs and journalist organizations. This will hopefully broaden EOs' participation in the public procurement market.

Further, inclusion of EOs in select training components will allow for a better mutual understanding of the private sector, CSOs, and investigative journalists. This will set the stage for a fruitful dialogue in which government entities responsible for overseeing the public procurement system, including law enforcement agencies in the case of suspected criminal activities and corruption, will ideally be more receptive to potential queries and requests for investigations submitted by CSOs and investigative journalists as a result of their monitoring activities.

**Insufficient Resources for Procurement Training for EOs and CSOs** Existing resources and initiatives for procurement training for EOs and CSOs are insufficient:

The Public Procurement Agency (PPA) has included information and training for EOs in its training curriculum, but there appears to be low demand from EOs for this.

Training by both the PPA and the e-procurement platforms interfacing with contracting authorities and EOs offer information and training in the mechanics of using them.

The Chamber of Commerce and Industry and others organize information and training sessions on public procurement for their members, though not on an ongoing basis.

The development of trainings for EOs did not make for a sustainable approach. They were not necessarily systematic, had more of a theoretical focus than a practical one, and were not provided on a regular basis. As for CSOs, IDIS has already provided several trainings within a prior project: "Cutting edge improvements in the public procurement system in Moldova through inclusiveness, creativity, and law-abiding practices" (2017-2019). In total, thirty civil society representatives participated in sixteen training sessions between 26 September and 16 November 2017, and 150 EOs (those who wanted to participate in public tenders) participated in eight workshops up to July 2018. Additionally, one field-tailored module of training for civil servants specializing in public procurement was developed, published, and disseminated.

The type of training IDIS offered to CSOs was more comprehensive, but it was not available on a recurring basis. Of the CSOs previously trained by IDIS, five have already engaged in public procurement monitoring.

The training planned as part of this project will seek to increase the number of CSOs and investigative journalists engaged in procurement monitoring, update the knowledge of previously trained individuals/organizations in terms of legal and regulatory changes, familiarize them with new monitoring tools, and deepen their analytical skills in risk identification and assessment. Following successful completion of the training, IDIS and PTF will provide funding and mentoring to eight to ten organizations for a period of around fifteen months. This will enable them to continue their monitoring activities and will increase the likelihood that these organizations will develop a high level of competence in procurement monitoring that will be sustainable beyond the life of this project.

Providing a forum (Roundtable event) to foster dialogue among CSOs, investigative journalists, contracting authorities and EOs that ideally could lead to the use of **Integrity Pacts** and adoption of codes of ethics for all parties is a novel element of the training to be provided under this project. Integrity Pacts are agreements that are entered into between procuring authorities and bidding companies/selected contractors. Typically, a civil society organization monitors the compliance of all stakeholders with these agreements.

Integrity Pacts ensure transparency in all stages of the procurement process, from the needs assessment to contract management and payment. Integrity Pacts prevent corruption by providing adequate incentives and sanctions for both the public authorities and the bidders. Integrity Pacts detect corruption through a whistleblowing system that both encourages reporters and protects against potential retaliation, thereby build confidence among all stakeholders.

**Training needs assessment** | To develop a robust, relevant curriculum adapted for the extended target population the following questions should be answered:

- What issues does the target population for training encounter?
- How can the training address these issues?
- How can the training do that efficiently and in a practical way?

The baseline work with the interviews and the needs assessment carried out by IDIS during the project inception phase aimed to answer these questions. The needs assessment, carried out in January 2021, provided good feedback in terms of the level of interest in training on public procurement monitoring, as well as useful information to guide the scope and type of training needed. IDIS and PTF sent surveys to 326 individuals and received responses from seventy-nine, a response rate of 24 percent. Of those respondents, around 75 percent are active only at the local level, with the balance being active either at the central level (6 percent) or a mix of both. Out of the total, fifty-nine respondents (74.7 percent) represent civil society organizations, six respondents (7.6 percent) represent media institutions, and the other fourteen (17.7 percent) are civic activists/independent monitors. Approximately 19 percent self-reported as having vast experience in public procurement monitoring, with the remainder indicating they had little to none. Just over two-thirds of respondents reported having adequate organizational capacity and human resources to engage in public procurement monitoring, and 92 percent of respondents expressed a willingness to participate in training in public procurement monitoring. This high degree of interest suggests there will be enough individuals from competent CSOs and media organizations to ensure an adequate number of qualified participants for the training.

Lack of transparency and openness on the part of the Contracting Authorities is a prominent issue identified in the survey. Further, lack of action by control/law enforcement bodies after they are informed of monitoring results, as well as an insufficient level of knowledge and skills among CSOs and investigative journalists necessary to analyze and monitor procurement also scored high on the list of concerns in the survey.

When asked which topics they would like to see covered in the training, respondents ranked monitoring tools, methodologies, and their application among the most important topics. This was followed by the procurement process and procedures, the operation of MTender, and means of civil society collaboration with the authorities in the field of public procurement.

There is a need for a competency-based practical and dynamic training with the different categories of trainees attending the sessions relevant to their responsibilities/roles in public procurement. The

training will introduce the concept of effective and responsible procurement monitoring, highlighting possible corrective actions. It will emphasize risks in procurement, important red flags, risk indicators and risk evaluation. It will also stress the importance of a systematic approach with the use of checklists covering different stages of the procurement process, access to reliable data, and analytical tools. Due to the inclusion of private sector participants (EOs) in some of the sessions, topics pertaining to business ethics and the use of Integrity Pacts will be part of the program.

### **Training modalities and training dates**

It is anticipated that the training will take place between October and December 2021, with twelve modules—two per month—consisting of two training sessions each imparted over two days. To take into consideration the expanded target training population, a modular approach was deemed best to allow different categories of participants to attend the trainings most relevant to them. Depending on the COVID situation, the entire training could be virtual or alternatively blended with some sessions being conducted online in the form of webinars and others face-to-face in a classroom format. A decision on the format will be made closer to the planned starting date for the training.

The training will make use of working groups, discussions, and experience sharing with examples and case studies, a number of which will be developed by CSOs to showcase their work, issues faced, and results obtained. The online part of the training will take full advantage of tools conducive to a more active participation of the attendees such as polls and breakout rooms. To support their procurement monitoring activities, participants will be trained in the use of different monitoring tools in the MTender system as well as those available outside the system. They will also be provided with an updated version of IDIS's Monitoring Guide.

### **Tools developed in Moldova in the MTender system and outside of the government-mandated e-procurement system, and an analysis of their potential usefulness in the training and in the subsequent monitoring:**

The project team carried out a review of all tools developed in Moldova that can be used for procurement monitoring, and the information they can provide. There are tools developed for generic monitoring purposes such as the Open Contracting Portal and tools developed for a specific purpose such as the 2.0 Version of OpenMoney.md which shows connections between public procurement contracts and beneficiaries. A number of these tools are tailored to specific procurements such as Tender.Health for COVID 19-related procurements, a tool designed by the Ministry of Health. *Revizia.md*, a platform developed by AGER, is built around red flags in procurement. The platform is designed to facilitate monitoring of public procurement by civil society actors. The risk indicators can be found here: <https://scoring.esempla.systems/statistics>. Other tools, still in development, include a Business Intelligence Module (BI) which was launched in a test phase in April 2021.

### **Tools developed elsewhere that could be relevant and usable in the Moldova context and which tools are in planning phases:**

Manuals such as the “Red Flags Civil Society Monitoring Tool” developed by Transparency International USA, set forth examples of situations representing indicators of possible irregularities or fraudulent or corrupt practices, and how to identify these indicators. This methodology has been used as a base by AGER, one of the CSOs already conducting regular monitoring activities to develop its own methodology.

The analysis of all these sources of information, techniques, and tools provides a comprehensive overview of the resources available for monitoring. This information will be covered in the training to empower monitors in their future activities.

## Conclusions

Based on the findings of the baseline study completed under this project, it is clear that there is a need—and an appetite—for improving the fairness, transparency, and efficiency of the public procurement system in Moldova, with the ultimate goals of providing citizens with improved quality of goods and services and ensuring value for money. There is evidence of wide support for an expanded and enhanced role for civil society actors in contributing to these outcomes by serving as independent monitors of public procurement at all stages of the process.

In Moldova, a small core of highly competent and dedicated CSOs and investigative journalists are already engaged in procurement monitoring. The potential exists to expand both the number and regional coverage of such monitors by training additional organizations and individuals, which this project aims to do. Strong interest in such training has been expressed by respondents to the project's survey of 326 individuals representing CSOs and investigative journalist organizations.

While trainings of CSOs, investigative journalists, and EOs have been done in the past, the most recent such efforts took place in 2018, around the time of the launch of the pilot e-procurement platform MTender. Many developments have occurred since then, including legal and regulatory changes, launching or upgrading of new tools such as OpenMoney.md, Revizia.md, and Tender.Health. Most important, however, has been the removal of uncertainty around the future of MTender as a result of the Ministry of Finance commitment to the tool. Despite a negative assessment by European Dynamics, a company hired by the EU to carry out a review of MTender and evaluate whether it could be improved, upgraded, and expanded, the Ministry of Finance of Moldova decided not to abandon MTender in favor of a new system. Instead, it will carry out the necessary work to ensure that the platform meets the standards and needs of all users, including contracting authorities, civil society actors, and EOs.

The aforementioned conditions make this a perfect time to upgrade the knowledge and skills of previously trained CSOs and investigative journalists, as well as to train additional organizations and individuals in these categories to engage in competent and responsible monitoring of public procurement.

Many of the reports consulted for this project, refer to the reluctance on the part of many EOs to participate in bidding on public procurement opportunities. They cite a mix of confusing regulations and procedures, and a lack of trust in the openness and fairness on the process. A well-trained cadre of CSOs and investigative journalists serving as watchdogs in public procurement can help increase the transparency of the process. As a result, the team plans to include EOs in parts of the training under this project, e.g., learning more about the legal and regulatory frameworks and control bodies. This will be followed by a Roundtable dialogue among Contracting Authorities, Eos, and CSOs on the value of codes of ethics and the use of Integrity Pacts. Involving Eos in these elements of the project has the potential to lead to the formation of a multi-stakeholder group (outside of the scope of this project) that could serve as an ongoing forum for enhancing transparency in public procurement in Moldova. An important conclusion from the inception phase is that in spite of **COVID-related restrictions on travel and physical meetings** lasting longer than expected, it has been possible to complete the work envisaged without major delays. In some cases, such as the development of the training program,

the work program is ahead of schedule. The experience, hard work, competence, and dedication of the local partner IDIS has contributed significantly to this positive outcome. The only schedule change that has occurred due to the pandemic is the delay of the official launch event to be held with key stakeholders in Moldova. Originally planned for June 2021, this has now been moved to the latter part of September. If conditions do not at that time permit an event with the physical presence of participants and speakers, then a virtual event will be arranged instead.

