

SUMMARY REPORT FROM MONITORING EMERGENCY PUBLIC PROCUREMENT FOR PROTECTION AGAINST THE CORONAVIRUS

September 2020

MONITORING CORONAVIRUS-RELATED EMERGENCY PUBLIC PROCUREMENT

The emergence and spread of the coronavirus gave rise to the need for urgent procurement of goods, services and works for protection and prevention against virus spread and infection. On that account, instead of being organized under regular procedures, these procurements were pursued as part of streamlined and fast-tracked procedures, having in mind the urgent need to secure necessary means for protection and treatment. Rushed action and focus on other aspects, such as health and life of the people, increase the risk of unintentional and intentional errors and malpractices on both sides – by contracting authorities and by suppliers. Hence there is increasingly high number of calls by domestic and international institutions for greater transparency, accountability and responsibility on the part of the authorities when implementing coronavirus-related urgent procurements, as well as for enhanced monitoring and control by state bodies and the civil society. This particularly concerns countries like North Macedonia, which is already marked by limited resources, giving rise to the need for each and every cent of public funds to be spent according to intended aim and purpose, and in cost-effective manner. Therefore, immediately after the onset of the crisis, the Center for Civil Communications initiated monitoring of coronavirus-related urgent procurements aimed to detect weaknesses in the process and to contribute toward their resolution, all for the purpose of protecting public funds and ensuring cost-effective use of limited resources in the country. After the first three periodic reports, this is the fourth, summary report that allows the public comprehensive insight into COVID-19 procurements and is accompanied by open format database comprised of coronavirus-related public procurement contracts, available on the Center for Civil Communications' specially designated web-platform: www.opendata.mk.

KEY FINDINGS

6,7 million euros contracted under urgent public procurements for coronavirus protection, only in the first six months of the crisis.

One third of these contracts were awarded by the **Ministry of Interior (Moi)**, in the value of **2.2 million EUR**, making this institution the champion in terms of cumulative contract value.

43% of the value of all contracts has been awarded to **only five companies**, although the total number of companies awarded coronavirus-related contracts accounts for 186.

In the case of **68%** of contracts awarded, institutions **have violated their law-stipulated obligation** to publish the contracts within a deadline of ten days from their signing.

Every third contract awarded under coronavirus-related urgent procurements implied negotiations **with only one bidder**.

There are **significant differences in price** at which masks, protective suits and gloves were purchased

Some contracts **do not include precise descriptions** of goods being purchased, which opens space for malpractice during contract performance.

MONITORING RESULTS

6.7 million euros for “urgent procurements” related to coronavirus protection.

- Thus far, the total value of public procurement contracts awarded under urgent negotiation procedure without call for bids amounts to 413 million MKD, i.e. 6.7 million EUR.
- In the period from March to August this year, a total of 447 urgent procurement contracts have been awarded.
- Such urgent procurements were organized by 97 state institutions.
- The highest value of contracts awarded is noted with MOI, which signed 13 contracts in total value of 2.2 million EUR, accounting for one third of the total value of contracts awarded by all institutions together.

Top five institutions in terms of highest value of coronavirus-related procurement (March – August 2020), according to published notifications on contracts signed

No.	Institution	Number of contracts	Total value (in EUR)
1	Ministry of Interior	13	2.167.253
2	Ministry of Health	22	733.020
3	University Clinic of Traumatology	48	699.914
4	City General Hospital “8 September” Skopje	35	429.172
5	Macedonian Academy of Arts and Science – MAAS	24	259.127

Almost half of funds were awarded to only five companies, although the total number of companies awarded contracts accounts for 186.

- Contracts were awarded to total of 186 companies, but 43% of the total value of all contracts belongs to only five companies.
- First ranked, with highest value of public procurement contracts in highest, is Prilep-based company Gifty Tek, for procurement of masks necessary for Ministry of Interior and the Ministry of Defense.
- Next in row, with significant value of contracts awarded, are Skopje-based companies Biotek and Soniks Anastasija, while the top five group - albeit under smaller amounts - also includes Alkaloid from Skopje and Lisa-Kom MS from Kavadarci.

Five companies with highest value of coronavirus-related procurements

No.	Company	Number of contracts	Total value (in EUR)
1	GIFTY TEKS import-export LLC Prilep	2	1.138.192
2	BIOTEK LLC export-import Skopje	3	672.922
3	Soniks Anastasija LLC Skopje	9	485.157
4	ALKALOID JSC Skopje	18	299.862
5	LISA-KOM MS LLC Kavadarci	2	299.447

There are significant differences in price for procurement of masks, protective suits and gloves.

- Major difference in prices attained by institutions is noted in respect to all products being procured during the crisis: masks, gloves and protective suits.
- In the case of masks, despite differences in price depending on the type of masks, major variations are also noted among masks of the same type. In that, institutions have purchased 16 different types of masks. The most expensive are FFP2 masks, i.e. 448 MKD per piece, and biggest differences in price for procurement of same type of masks are observed in respect to “respiratory masks N95”, in the range from 66 MKD to 313 MKD per piece.
- In the case of “single-use protective suits”, the prices ranged from 177 MKD to 1,156 MKD per suit. Otherwise, analysis of relevant procurements found seven different descriptions of protective suits, with the most expensive being purchased at the price of 1,788 MKD and described as medical protective suit.
- Five different types of gloves were purchased at prices ranging from 1.8 MKD to 9.32 MKD per glove.

As many as two thirds of contracts awarded under urgent procurements were published after expiration of the law-stipulated deadline of ten days.

- In the case of 68% of contracts awarded, relevant institutions have acted in direct violation of the Law on Public Procurements, i.e. have not complied with the obligation to publish notifications on urgent contracts signed, together with copy of such contracts, within a deadline of ten days from their signing.

- As part of their contracts, significant portion of institutions have not indicated neither the quantities agreed nor the individual prices, thereby preventing insight in crucial elements of their tender procedures.

One third of urgent procurement procedures were presented with only one bid.

- In the case of 30% of urgent procurements, negotiations were held only with one company.
- Analysis of awarded contracts reveals cases in which lower prices have been attained when negotiations included more than one bidder.
- In the case of 10% of notifications on contracts signed, contracting authorities have changed the initially indicated number of bidders from 1 to 2 and more, as part of changes to these notifications requested by the government and in respect to ensuring that such public procurements are designated as related to COVID-19.

A portion of contracts do not include precise description of goods being procured, which opens space for abuse in contract performance.

- Some contracts feature imprecise description of goods being procedures, for example, procurements where it cannot be established whether the procurement subject concerns respiratory or protective masks or protective suits for single or multiple use, which opens space for suppliers to collect payment for the more expensive type of such goods, but deliver the cheaper type.

There are no publicly available information on the outcome from the government's calls for intervention procurement of masks and gloves.

- Two separate government decrees were adopted for the purpose of calls for intervention procurements, one of which concerned masks (March 2020) and the other concerned gloves (April 2020).
- Thus far, there are no publicly available information on the outcome of these calls, which was duly noted and remarked in the previous three reports.

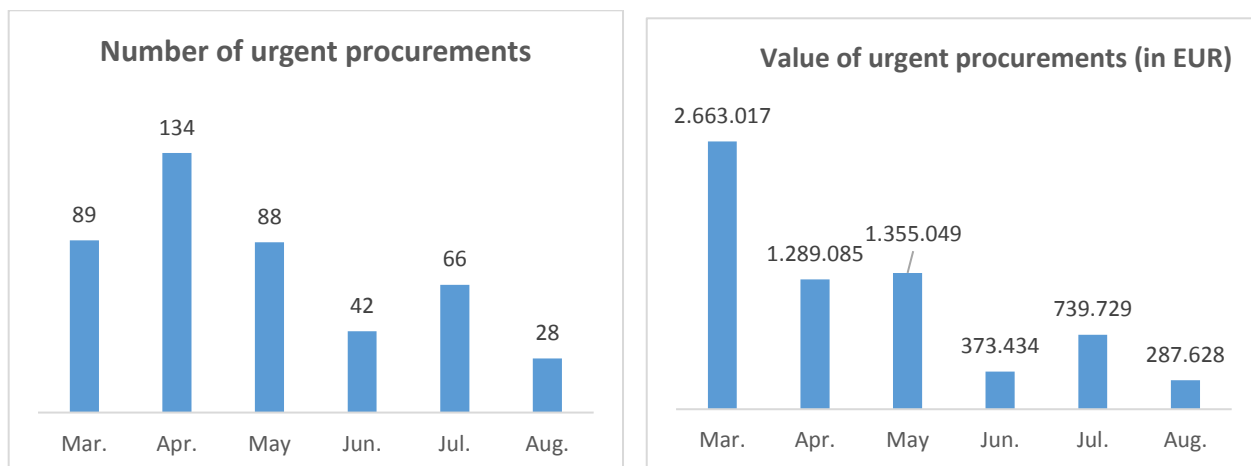
MONTHLY VARIATIONS IN CORONAVIRUS-RELATED URGENT PROCUREMENTS

In the first months and following initial indications and recommendations, institutions increased the number of companies involved in procurement negotiations and more frequently published the contracts awarded.

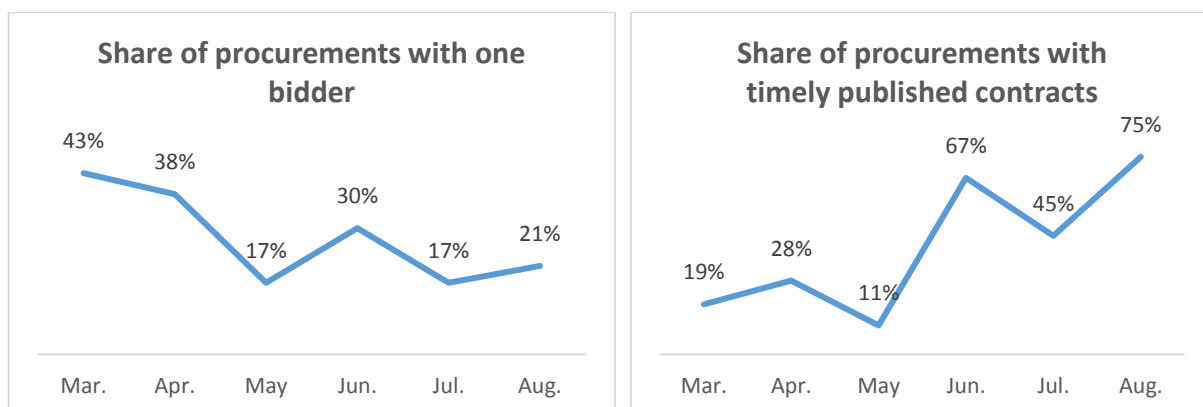
- The highest number of urgent procurement contracts for coronavirus protection was signed in the month of April.

- While the highest number of urgent procurement contracts for coronavirus protection was signed in April, in respect to their value, the most expensive contracts were signed at the onset of the crisis, i.e. in March 2020.
- This monitoring endeavor noted two waves of procurements, the first of which culminated in April, while the second culminated in June.

Number and value of COVID-19 urgent procurements (overview per month)



- Unlike the situation observed at the onset of the crisis, when almost half of procurements were marked by only one bidder, in response to continuous appeals and indications the institutions started including more bidders in the negotiations.
- Also, institutions enforced recommendations in respect to publication of contracts awarded and, unlike the initial 19%, by the end of this reporting period as many as 75% of contracts were timely published. However, the remaining 25% of contracts were published after expiration of the deadline of ten days from their signing.



RECOMMENDATIONS

- Having in mind that the coronavirus crisis has been ongoing for six months and that it will likely continue in the following period, public procurements related to coronavirus protection should be implemented under regular procedures instead of urgent negotiation procedures.
- In order to increase competition and attain lower prices and higher quality of procurements, institutions that will continue to use negotiation procedures without announcement of call for bids should make efforts to include as many companies as possible in such negotiations.
- In order to improve planning of coronavirus-related procurements, institutions should conduct market research and analysis, having in mind that, to present, a sufficient number of procurement have been implemented and they could be used as guide in this respect.
- Institutions should timely publish in the Electronic Public Procurement System (EPPS) and on their websites relevant notifications on contracts signed and sample of coronavirus-related urgent procurement contracts, i.e. within ten days after contract signing the latest.
- In order to ensure greater transparency, institutions should use the legal instrument for so-called voluntary transparency and publish decisions on selection of the most favorable bid in EPPS on the same day when they informs the bidder awarded the contract.
- Coronavirus-related public procurement contracts must include information on individual prices attained for good and services procured, as well as detailed description of procurement subjects.
- The need for coronavirus-related urgent procurements should be justified in detail as part of decisions for organization of public procurement, with due elaboration of reasons for procurement of necessary goods or services, as well as quantity and quality thereof.
- Competent bodies should draft guidelines or manuals for procurement of goods and services intended for protection and prevention of virus spread and infection, with due consideration of varying needs at the level of individual institutions.

CORONAVIRUS-RELATED URGENT PROCUREMENTS AND CORRUPTION RISKS

The situation in respect to the coronavirus and the related disease COVID-19, as well as the declaration of state of emergency in the country, imposed the need for urgent procurement of goods, services and works concerning protection against the virus spread and infection. Pursuant to the Law on Public Procurements, these procurements were implemented by means of direct negotiations with companies, i.e. under negotiation procedures without announcement of calls for bids, whereby institutions did not need to obtain previous opinion from the Bureau of Public Procurements.

Namely, having in mind the seriousness of the situation and the declaration of state of emergency in the country, and pursuant to Article 55, paragraph (1) of the Law on Public Procurements (“Official Gazette of RM” no. 24/19), these procurements are implemented under negotiation procedure without prior announcement of call for bids: “[...] in cases when, due to urgent needs, caused as a result of events that the contracting authority could not anticipate in advance, other types of procurement procedures cannot be organized. Circumstances that justify the urgent need are of such nature that they could not be attributed to the contracting authority”.

Moreover, while regular procurements implemented under negotiation procedure without prior announcement of call for bids necessitate obtaining previous opinion from the Bureau of Public Procurements, these procurements can be implemented directly, without such opinion, as allowed under Article 55, paragraph (6) of the Law on Public Procurements, which reads: “As exemption from paragraph (5) of this article, the contracting authority shall not be obliged to obtain previous opinion prior to organization of negotiation procedures without announcement of call for bids on the basis of paragraph (1), item d) from this article in cases when safety, life and health of the people is threatened”.

Given the above presented, on March 13th, 2020, the Bureau of Public Procurements issued a communication to contracting authorities confirming the above described situation:

“Hereby, we inform all contracting authorities that need to organize procurements under negotiation procedures without announcement of call for bids in cases of urgent needs that the procurements directly related directed to the COVID-19 pandemic can be implemented without obtaining previous opinion from the Bureau of Public Procurements, pursuant to Article 55, paragraph (6) of the Law on Public Procurements, all for the purpose of meeting such urgent needs within the shortest deadline possible and without any delays. However, reasons thereof need to be adequately elaborated in the relevant decision for organization of public procurement. Other requirements related to obtaining previous opinion pursuant to Article 55, paragraph (5) of the Law on Public Procurements should be submitted via registered post to the Bureau’s archive.”

On that account and having in mind that the negotiation procedure without announcement of call for bids is already the least transparent procurement procedure, urgent procurements imply an inherently higher corruption risk due to the speed under which they are implemented and the distorted focus of the public on other matters, which imposes the need for enhanced monitoring of such procurements. This is even more important in the light of already limited resources in the country, and the need for each and every cent of public funds to be used in the most cost-effective manner.

State of emergency, general lack of necessary goods and speed under which procurements are implemented have all increased the corruption risk associated with this already non-transparent procurement procedure. Aware that institutions find themselves in a bind, suppliers might have endeavored to make the best of the situation and have increased prices above their realistic and common rates.

In order to narrow the space for possible abuse of already modest public resources, maximum efforts are needed with a view to increase transparency, accountability and cost-effectiveness of such procurements.

Moreover, three additional questions need to be raised in respect to urgent procurements. First, are prices at which goods are purchased realistic and set against market terms and conditions, given that these situations imply a higher risk for prices to be unreasonably expensive. Second, do suppliers comply with the deadline for delivery of goods, services and works, given that timely delivery or performance represents a key factor at times of crisis, but also a reason for urgent procurement. Third, have all contracting authorities duly justified their procurements, including all elements thereof, such as type, quantity, quality and deadline, as required by law.

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