



Institute for Development
of Freedom of Information

Guidelines on Covid-19 Related Public Procurement

April, 2020



Publication of this article was financed by the Open Society Institute Budapest Foundation (OSI). The opinions expressed in this document belong to the Institute for Development of Freedom of Information (IDFI) and do not reflect the positions of Open Society Institute Budapest Foundation (OSI). Therefore, OSI is not responsible for the content.

The Goal of the Guidelines

To date countries face the challenge of conducting fast and effective procurement in order to acquire the goods and services necessary for fighting against Covid-19. As a rule, due to the state of emergency announced in most of the countries effected by the pandemic, national legislations foresee the necessity of conducting public procurement within a limited period of time and allows avoiding competitive process of procurement (such as electronic procurement, tenders, etc.). However, these provisions should not be interpreted as posing risk to transparent and accountable public procurement. On the contrary - ensuring the openness and transparency of the procurement process is particularly important nowadays when a considerable financial sources (state budgets, special funds, international aid and private donations) are spent on conducting urgent procurements aimed at fighting against the pandemic. The concern is based on previous examples of corrupt practices in the process of medical procurement such as the ones linked with the Ebola crisis.¹ It is particularly important for low-income countries since they are most vulnerable to corruption risks.²

In order to effectively fight against the pandemic states should fully internalize the past experience and take every step necessary to ensure open access to the information on Covid-19 related procurement. Wider society should have the opportunity to scrutinize the process and keep track of procurement spending through relevant state systems of public procurement. This will raise public trust towards their governments and mobilize collective efforts for pandemic crisis management.

The guidelines aim at providing decision-makers and civil society organizations with easy to understand information on the steps to be taken in the process of conducting procurement aimed at responding to the challenges caused by the current pandemic. In order to ensure that Covid-19 related public procurement meets the high standards of transparency and is free of corruption risks relevant steps should be taken in the following directions:

- 1. Unified system of public procurement at place** – states should ensure that public procurement is conducted via an unified system. The system should be used at all stages of procurement, including pre-tendering, tendering and post-tendering phases. Information on the website should be uploaded in a timely manner and should be available in machine readable format (i.e. can automatically be read and processed by a computer). In order to meet the standard of full transparency the systems should follow Open Contract Data (OCDS) standards, which enables disclosure of data and documents at all stages of the contracting process by defining a common data model and supporting various document and data formats. The system should include information on procurers, suppliers, the object of procurement, source of financing (state budget, special funds, international aid, private donations), type of procurement, procurement codes by categories and sub-categories, price and the amount of money transferred;

¹ https://www.transparency.org/news/feature/corruption_and_the_coronavirus
<http://ti-health.org/wp-content/uploads/2019/03/IgnoredPandemic-WEB-v3.pdf>

² <https://www.u4.no/publications/corruption-in-the-time-of-covid-19-a-double-threat-for-low-income-countries.pdf>

2. **Access to relevant rules and guidelines** - Rules and guidelines governing the public procurement processes, including the information on the procedure for conducting Covid-19 related procurement should be available in machine-readable format;
3. **List of goods, works and services that can be purchased using urgent procurement linked with Covid-19** – as a rule national jurisdictions include the criteria for conducting urgent procurement, however to-date when the state of emergency is announced by most of the countries procurers are often exempt from the obligation to meet these criteria and can conduct urgent procurement without relevant justification. This poses risks of misuse of the current situation when public entities conduct urgent procurement for purchasing goods, works and services which are not linked with the pandemic. In order to avoid this scenario states should adopt the lists of goods, works and services necessary for fighting against Covid-19. The urgent procurement during the pandemic period should only be used for purchasing the goods, works and services included in these lists. Along with avoiding misuse of the emergency state by public procurers, this approach will also ensure more responsible budget spending, which has become even more important in the given circumstances, when countries face economic crises;
4. **Information on pre-tender communication with prospective suppliers** – access to pre-tender communication between state entities and suppliers is particularly important in case of direct procurement. In the state of the pandemic, authorities often conduct direct procurement, dwelling from the fact that there is a single provider of specific goods or services. Although necessary, the procedure poses risks of bias and intentional price-gouging, thus requiring particular public scrutiny;
5. **Full publicity of contracts** - Full text of the contracts awarded, its annexes and any amendments made to them should be uploaded on the unified system of public procurement in machine-readable format;
6. **Information on the process of contract implementation** – it is crucial that the process of contract implementation is fully transparent, enabling the public to closely monitor the effectiveness of public procurement processes and budget spending;
7. **Quarterly reports on the procurements conducted, their results and implementation process** – along with the full transparency of each procurement process quarterly reports should regularly be published by procuring entities. In the case of Covid-19 related procurement, the reports should be published weekly;
8. **Supplier search engines available in open data format** – the search engine should include company profiles and information on the procurements they have participated in as well as those implemented by them and the list of goods and services they would be able to provide. The system would be particularly useful for public entities in search of relevant medical services, goods and equipment necessary for fighting against Covid-19. Relevant systems are often used internally by procurers, but they are rarely available for the public. Publicity of these databases will enable the wider society to easily track down information per company and conduct

effective monitoring of public procurement related budget spending;

- 9. Publishing the list of procurement identification codes for the above-listed items and a wider code on Covid-19 related procurement** – in order to enable easy tracking of Covid 19 related procurement states should publish the lists of CPV³ codes of the above-mentioned goods, works and service. At the same public must be able to conduct a search by a wider Covid-19 related procurement code;
- 10. Information on the steps taken in order to prevent or respond to the cases of price-gouging** – in the given circumstances when there is a shortage of medical equipment and goods necessary for facing the pandemic, suppliers are prone to rise prices. In order to avoid price-gouging states should adopt relevant policies directed against the companies acting in this manner;
- 11. Dialogue and partnership with business** – states should encourage the private sector to contribute to the process of facing the pandemic. They should address the business to produce the goods and equipment vital for fighting against Covid-19. States should offer subsidies to these companies, thus ensuring that business is interested to participate in the process;
- 12. Diversification of suppliers** – Diversification of suppliers will be particularly important in the post crises period when small businesses will be in need of financial recovery. By widening the scope of private entities participating in the state procurement business, especially small and medium-size businesses state will ensure that public finances are spent for supporting the recovery of a wide scope of business operators.

³ CPV codes are a system of classification for public procurement which uses standardized vocabulary to help procurement personnel classify their contract notices consistently and to make it easier for suppliers and contracting authorities to find notices.