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PUBLIC PROCUREMENT MONITORING REPORT (Orhei municipality)

Chişinău, 2018

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(Orhei municipality)



Kingdom of the Netherlands



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ACRONYMS

PPA – Public Procurement Agency

CA – Contracting Authority

BAP – Bulletin for Public Procurement

RPQ –Request for Price Quotations

RPQW – Request for Price Quotation without Publication

SVC – Small Value Contracts

PT – Public Tender

RSAP – Public Register for Public Procurement

Introduction

The Orhei City Hall is one of the largest contracting authorities in the Republic of Moldova. This is also indicated by the amount of money that was planned for public procurement in 2018 (about 25,000,000 lei) and is especially true for contracting authorities - public institutions in charge of the management of localities (towns, communes, villages).

Therefore, the interest in the use of public money by the Orhei City Hall, including for the purpose of public procurement, must be, at least, proportional to the amounts with which this authority operates. This interest could be even greater if we take into account the fact that, in 2015, the Town Hall did not make publicly available any activity report, and that the previous Court of Accounts audit report on the management of money and public property dates back to 2014. At the same time, it is not publicly known of any controls that, during the years 2015-2018, would have been carried out at the Orhei City Hall by the Financial Inspection. The City Hall also did not make public the results of the internal audits carried out during the same period of time. Additionally, no Statement of Good Governance has been published on the official website of the City Hall.

In this situation, the monitoring by the civil society, including that carried out in the field of public procurement, is particularly important, timely and necessary.

This monitoring report on the public procurement of the Orhei City Hall is concerned with the year 2018.

Taking into account considerations on financial impact and the relevance for the public interest, we have selected for monitoring the three largest procurement contracts which were awarded by the City Hall of Orhei before the end of May 2018. Also, taking into account their actuality, we have additionally selected the procurement procedures executed carried out during the current June-July period.

During the public procurement monitoring process, the "red flags" monitoring instrument was employed in accordance with the public procurement monitoring guide compiled by IDIS "Viitorul"¹.

Considerations on the transparency of public procurement

In 2018, the Orhei City Hall has published in the Public Procurement Bulletin (BAP) a single notice of intent regarding two procurements of works of street repairs. The announcement was published in BAP no.25 (no. 21 - erroneously) of 30 March 2018, but it was canceled shortly thereafter.

The first ever procurement plan, which was published on the official website of Orhei City Hall (which provided a few years ago with a special section dedicated to public procurement), was the procurement plan for 2018². This, however, was published only on May 15, when much of the planned purchases have already been made. This was done in violation of the point 18 of the HG1419 / 16 which stipulates that the CA is obliged to publish on its webpage the procurement plan within 15 days from its approval, and contrary to the provisions of art. 27, par. (3) of the

¹<http://viitorul.org/files/library/Ghid%20Achizitii%20Societate%20Civila%202017%20-%20PRINT.pdf>

²<http://orhei.md/index.php?pag=news&id=764&l=ro>

Public Procurement Law (PPL) 131 / 15, which provides for the publication of notices of intent no later than 30 days after the approval of the budgets.

During the years 2016-2018, no monitoring report on the execution of public procurement contracts, either annually or quarterly/half-yearly, was published on the Orhei City Hall website. Moreover, during the three years under the current local administration, on the City Hall webpage page, there have been published sporadically only eight various informations, among which only four were on public procurement procedures. Notably, the Order on the composition of the public procurement working group work is also missing on the CA website, which indicates a lack of transparency.

The Public Procurement Agency was notified in connection to these and other irregularities, which indicate a virtually complete lack of transparency in the Orhei City Hall when it comes to public procurement, including the non-acceptance of a representative of the civil society as a member of the working group for a recent acquisition procedure conducted at the end of June 2018.

Monitoring of awarded contracts

During the current 2018 year, according to the data published on the website of the Public Procurement Agency (PPA)³, there have been awarded 11 procurement contracts in which the Orhei City Hall has the status of contracting authority. These contracts were awarded following five public tenders (PT), five requests for price quotations (RPQ) and a request for price quotation without publication (RPQW). The three largest contracts awarded by Orhei City Hall during the year 2018 are the following:

- ✚ MDL 1,997,721.00 for "Servicing and maintenance of the green spaces of the Orhei municipality in 2018" (LLC "Borintex");
- ✚ MDL 3.427.679,02 for "Extension works for public lighting in Orhei", (JSC "Electrica Company");
- ✚ MDL 6,880,860.00 for "Preparation and delivery of food for children", (LLC "Brodetchi").

It is important to note that in the case of procedures for the procurement of works, there must be at least 3 qualified candidates for the procedure not to be canceled. In the case of the RPQ, the procedure involved only one economic operator.

These three acquisitions, totaling MDL 12,303,230 constituted the 6th part of the total expenditures planned by the Orhei City Hall for the fiscal year 2018, and which amounted to MDL 72,775,400.

Noticeably, the official website of the municipality does not contain any information about contracts awarded not only during the current year, but also about those of the previous years.

The authorities did not consult the opinion of the inhabitants of Orhei (or in any case, they did not disclose data on the organization and carrying out of questionnaires, consultations, surveys, public debates, etc.), regarding procurements, and hence the projects and expenses, to establish whether they constitute a priority or if there are other needs that the population considers more stringent.

³ www.tender.gov.md

Moreover, about the contracts for the procurement of works, services or commodities, the public often finds out only after they have been commenced or already executed, or vice versa, before all the issues related to the financing of the awarded contracts have even been cleared. The information of the public takes place, as a rule, through the positive press releases of Orhei City Hall and the reports and interviews given by the Mayor of Orhei, Ilan Sor, and broadcasted by a number of media outlets.

Contract awarded to “Borintex” LLC for the “Servicing and maintenance of the green spaces of the Orhei municipality in 2018”

Borintex LLC is a company in Chisinau, founded in 2007. According to the data on the website of the Public Procurement Agency, until 2015 the company was awarded only two contracts by the contracting authorities in the capital. Starting with 2016, that is to say, during the mandate of the current public administration of Orhei, Borintex obtained every year contracts for maintenance/servicing/arrangement of green spaces. Such works/services were virtually non-existent among the previous procurements of the Orhei Mayoralty and the Orhei Raional Council. During the last 3 years, out of the raional budgets have been allocated over MDL 700,000 for such contracts, while the total amount allocated from the municipal budget is several times higher, rising to over MDL 4,300,000. At the three tenders announced so far by the Orhei City Hall, Borintex LLC, which has obtained the contracts, was the only participant:

- 28.03.2016, RPQ – *Works for maintenance and arrangement of the green spaces of the Orhei City* - MDL 809,445.58,
- 28.02.2017 – *Works for servicing and maintenance of the green spaces of the Orhei in year 2017* – MDL 1,498,200.06,
- 04.02.2018 - *Works for servicing and maintenance of the green spaces of the Orhei in year 2018* - MDL 1,997,721.00.

According to the Orhei City Hall's Purchase Plan for 2018, by the end of this year, there is going to take place yet another public tender with the object of procurement "Maintenance of green spaces in Orhei municipality in 2019", of an estimated value of MDL 2,000,000.

Worth noting is the fact that, after the first two contract awards to LLC Borintex in 2016 and 2017, Orhei City Hall was asked, through a request for information of public interest, for information regarding the respective procurement procedures and the volumes of the contracted/completed works. The contracting authority refused to provide this information and, due to this violation of the right to access information of public interest, was sued. Recently, a court case was won. However, it is unlikely that the litigation will end in the near future through a final decision of the Court of Appeal, and that information on the contracting and the performance of the services by LLC Borintex will be provided. Until now Orhei City Hall did not display the willingness to solve the case within a reasonable time, and the file has been in court since the beginning of April 2017, ie for more than a year.

Budget/financing

In the Orhei municipality budget for 2018, there exists a spending chapter titled the "Development of communal services and households" which, being approved in December 2017, was financed with MDL 18,731,500. A sub-chapter of expenses expressly provided for works/services of "Maintenance/ service/arrangement of green spaces" does not exist.

Planning and elaboration of the awarding documentation

The notice of intent for the purchase object " Services for maintenance and servicing of green spaces in the municipality, for 2018 " was published neither in BAP nor on the website of the contracting authority.

The acquisition plan for 2018 was not published on the official website of Orhei City Hall. Thus, it is impossible to ascertain whether the procedure for procurement of maintenance and servicing of green spaces was planned during the last year.

The elaboration of the awarding documentation

The awarding documentation (the task book or the descriptive documentation, the datasheet - instruction to bidders, the contract sample, the quotation blanks), were not published on the contracting authority's website so that they can become accessible to economic agents, but also to the public.

Open data from the State Register for Public Procurement (SIA RSAP) offers the opportunity to learn only a small part of the public interest information about the procurement of "Services for maintenance servicing of the green areas of the City, 2018".

In the invitation for participation, which can be downloaded from the RSAP, it is mentioned that the bidders were to participate in the procurement procedure, "according to the task book". The invitation also mentions that the source of the funds for the procurement is the Local Budget, and the requested term of delivery/ performance/execution is during the year 2018. Also below are listed the documents/qualification requirements for economic operators, but also the following information:

Interested economic operators may obtain additional information from the contracting authority and familiarize themselves with the requirements of the tender documents at the address indicated below:

*Name of the contracting authority: **Primaria Orhei***

*Address: **Orhei, Str. V. Mahu 160***

*Tel.: **060567503**, Fax: **023523740**, E-mail: **c.tatiana83@gmail.com***

*Name and position of responsible person: **MORARI VIOLETA, specialist***

***The set of documents** can be received at Orhei City Hall, floor I, "Public procurement" office.*

Economic operators wishing to submit bids for this procedure are to submit a request for participation (with a clear indication of the name, address, telephone number of the contact person and the name of the person empowered by the Participant).

***NOTE:** This requirement DOES NOT refer to bidders who registered in the procedure and accessed the documents within the SIA State Public Procurement Register.*

Submitting offers:

*The offer and the required qualifications documents compiled in a clear manner, without corrections, with a number and issue date, with the signature of the responsible person, in the envelope, sealed and stamped, are to be submitted **until 21.12.2017 14:00 at Orhei, str. V. Mahu 160***

Delayed offers will be rejected.

***The term of validity of the bids:** 30 days*

The bids will be opened** in the physical presence, or by electronic means, of the members of the working group of the contracting authority and the representatives of the bidders on **21.12.2017, at 14:00, at Orhei, str. V. Mahu 160

*Tender Guarantee: all bids must be accompanied by a tender offer guarantee in the form of a **BANK LETTER of 1%***

Launching of the procurement procedure, the submission and the opening of bids

The participation announcement for the tender no.17 / 03913 was published in BAP no. 97 of November 21, 2017. The announcement contains the main data necessary for informing the potential bidders. However, there is some lack of clarity in connection with the formulation of the object of the acquisition, which is incomplete due to the absence of the name of the locality where the services are to be provided. This omission was maintained in all subsequent documents, including in the data concerning the awarded contract. The person in charge of the procurement procedure was appointed Violeta Morari, a procurement specialist at the Orhei City

Hall. The deadline for submission of bids and the deadline for the public procurement procedure was set on 21.12.2017, at 14.00.

Public tender No. 17/03913

Contracting authority	Primăria Orhei
Address	mun. Orhei, str. V. mahu 160
Telephone/fax	023523981 078383111
Working group member responsible for the procurement procedure	MORARI VIOLETA
Object of procurement	Services of maintenance and servicing of the green spaces of the municipality, year 2018
Code CPV	77310000-6
Place of issuance of documents/taskbook	Orhei City Hall Orhei, et. I, office for "public procurement"
Place of the procurement procedure	mun. Orhei, str. V. Mahu 160
Language for the elaboration of the standard documentation/taskbook	State language
The tax for the tender documentation printed on paper is	0.00
The bank requisites of the accounts needed to pay the tax:	
The Bank	Ministry of Finances – State Treasury
Treasury account	TREZmD2X
The bank requisites of the offer guarantee account:	
The bank	Ministry of Finances – State Treasury
Treasury account	TREZmD2X
The bank requisites of the contract guarantee account:	
The bank	Ministry of Finances – State Treasury
Treasury account	TREZmD2X
Deadline for bid submission	21.12.2017 14:00
Deadline for public procurement procedure	21.12.2017 14:00
Additional data regarding the procurement procedure: http://etender.gov.md/proceduricard?pid=22505654	

The evaluation of bids and awarding the contract

In open data sources, there is no information on how the CA working group assessed the bids submitted for December 21, 2017 tender, with the object of procurement of "Services for maintenance and services of the green spaces in the city year 2018". Some information on the evaluation process is published in the SIA RSAP. According to these data, the evaluation criterion for awarding the contract was the lowest price.

In the "awarded contracts" section of the PPA webpage, there is only succinct information on the procurement contract: its date, the number of bidders, the object of the acquisition, the winner of the auction and the amount for which the contract was awarded. According to these data, on 04.01.2018, LLC Borintex was awarded a basic contract amounting to 1,997,721.00 lei.

The auction was attended only by the above-mentioned economic operator, who also won the tender having the object of procurement the '*Services for maintenance and servicing of green spaces in the municipality year 2018*'.

Contract implementation and contract monitoring

According to the data on the procurement procedure "Services for servicing and maintenance of green spaces in the municipality year 2018", which can be accessed through the SIA RSAP, the

contract is at the stage of execution⁴. At the same time, the working group within the Orhei City Hall, which awarded the respective contract, is responsible for monitoring the execution of the contract, did not report any irregularities, at least not in the public space. It is not known whether the working group of the contracting authority has produced the quarterly / half-yearly reports this year on the execution of the procurement contracts, but no official report has been published on the official CA website, although this is mandatory as of 2016. It is contrary to the provisions of point 34 of the HG667 / 16 which stipulates that the working group ensures the monitoring of the contracts by making reports in this regard and that such reports will be placed on the contracting authority's website.

Contract attributed to JSC “Compania Electrica”, for the “Works for extension of the public lighting in Orhei municipality”

Electrica S.A. is a joint stock company, registered in Chisinau in 1995. In the data on the PPA's web page regarding the awarded contracts, this company appears periodically as the economic operator winner of some procurement procedures, including in the Orhei district. According to these data, each year the company had 1-2 contracts. Their value was usually capped by several tens or hundreds of thousands of lei and never reached the sum of several million lei that Electrica was awarded this year, through a contract with the Orhei City Hall.

Budget/financing

In the budget of Orhei municipality for 2018, there is a chapter of expenditures titled *"Development of communal services and households"* which, approved in December 2017, was fixed in size at MDL 18,731,500. This chapter also includes the subchapter "Street illumination", for which initially, financial sources MDL 1,700,000 were allocated. At the beginning of April 2018 (after awarding the contract to Electrica SA) the budget was rectified and the expenditures for "Street lighting" were supplemented by an amount of MDL 6.335.700.

Planning and the elaboration of awarding documentation

The notice for intent for the *"Works for extension of the public lighting in Orhei municipality "* was published in 2018 neither in BAP nor on the website of the contracting authority. In the acquisition plan of Orhei City Hall for the current year, a public auction was scheduled for February with the object of acquisition "Street lighting", for which the estimated amount of 3,427,700 lei was planned. The plan was published on the contracting authority's website two months after the contract had already been awarded to Electrica JSC.

Elaboration of awarding documentation

The awarding documentation (the task book or the descriptive documentation, the datasheet - instruction to bidders, the contract sample, the quotation blanks), was not published on the website of the contracting authority for it to be accessible to economic agents, but also to the public.

The data published in the RSAP offers the opportunity to learn only a small part of the information of public interest about the procurement of "Works for the extension of public lighting in Orhei". In the Invitation to participate in the tender, which can be downloaded from the RSAP page, it is mentioned that the bidders are going to participate in the procurement procedure, "according to the task book".

⁴<http://etender.gov.md/proceduricard?pid=22505654>

The invitation also mentions that the source of finances for the procurement is the local budget and that the delivery/ performance/execution term is 2 months. Also, listed below are the documents/qualification requirements for economic operators, but also the following information:

Interested economic operators may obtain additional information from the contracting authority and familiarize themselves with the requirements of the tender documents at the address indicated below:

*Name of the contracting authority: **Primăria Orhei***

*Address: **Orhei, str. V. Mahu 160, Tel.: 060567503, Fax: 023523740, E-mail: c.tatiana83@gmail.com***

*Name and position of the responsible person: **APOSTOLOVA REGHINA, deputy mayor***

***The set of documents** can be received at Orhei City Hall, floor. I, bur. "Public procurement".*

Economic operators wishing to submit bids for this procedure are to submit a request for participation (with a clear indication of the name, address, contact telephone number, and name of the person empowered by the participant).

***NOTE:** This requirement DOES NOT refer to bidders who have registered with the procedure and have accessed the documents using the RSAP*

Submitting bids:

*The bid and required documents, clearly drafted, without corrections, with the number and date of issuance, with the signature of the responsible person, in an envelope, sealed and stamped, are to be submitted by **13.02.2018, 10:00 at the address: Orhei, str. V. Mahu, 160***

Delayed offers will be rejected.

***The validity of bids:** 30 days*

*The bids will be opened in the physical (or via electronic means) presence of the members of the working group of the contracting authority and of the representatives of the participants in the tender at **13.02.2018 at 10: 00, at Orhei, str. V. Mahu, 160***

Offer Guarantee:

All bids must be accompanied by a 1% guarantee for the offer

Launching the procurement procedure, submitting and opening the bids

The notice with regard to the public tender no.18 / 00039, with the object of procurement "Works for the extension of the public lighting in Orhei municipality" was published in BAP no. 4, of 12.01.2018. According to the announcement, the person responsible for the procurement procedure is the vice-mayor Reghina Apostolova, which may indicate a higher importance that CA has conferred to this particular procurement, compared to other procedures for which procurement specialists are responsible.

The deadline for the submission of bids and the deadline for the public procurement procedure were set for 02.02.2018, at 10:00.

Public tender No. 18/00039

Contracting authority	Orhei City Hall
Address	Orhei, str. V. Mahu 160
Telephone/fax	023523981
Working group member responsible for the procurement procedure	APOSTOLOVA REGHINA
Object of procurement	Works for the extension of the public lighting in the Orhei municipality
Code CPV	34993000-4
Place of issuance of documents/taskbook	Orhei City Hall, floor I, bur. "achiziții publice"
Place of the procurement procedure	Orhei, str. V. Mahu 160
Language for the elaboration of the standard documentation/taskbook	State language

The tax for the tender documentation printed on paper is	0.00
The bank requisites of the accounts needed to pay the tax:	
The Bank	Ministry of Finances – State Treasury
Treasury account	TREZMD2X
The bank requisites of the offer guarantee account:	
The bank	Ministry of Finances – State Treasury
Treasury account	TREZMD2X
The bank requisites of the contract guarantee account:	
The bank	Ministry of Finances – State Treasury
Treasury account	TREZMD2X
Deadline for bid submission	02.02.2018 10:00
Deadline for the public procurement procedure	02.02.2018 10:00
Additional data with regard to the procurement procedure: http://etender.gov.md/proceduricard?pid=24388298	

The auction, however, did not take place on the scheduled date. Exactly on that day, on 02.02.2018, an amendment was published in BAP no. 10, whereby the deadline for submitting and opening bids was delayed, for unknown reasons, by more than 10 days, and reset for 13.02.2018, at 10:00:

To the attention of interested economic operators!

In conformity with the needs of the Orhei City Hall, in the procedure of the public auction no. 18/00039 of 13.02.2018 regarding the procurement of works for the extension of the public lighting in Orhei, CPV - 34993000-4, there have been done the following modifications:

Deadline for submitting bids	02.02.2018 10:00
Deadline for the conducting the public procedure procurement	02.02.2018 10:00
Is replaced with:	
Deadline for submitting bids	13.02.2018 10:00
Deadline for the conducting the public procedure procurement	13.02.2018 10:00
Other data previously published in the invitation regarding the procurement procedure:	
Budgetary period	
Updated data with regard to the procurement procedure: http://etender.gov.md/proceduricard?pid=24388298	

The evaluation of bids and awarding the contract

In open data sources, there is no information on how the bids submitted within the public tender of 13.02.2018 with the object of the procurement of "Works for the extension of public lighting in Orhei" were evaluated. According to the information published in the RSAP, the evaluation criterion for contract awarding was the lowest price. According to PPA data, on March 6, 2018, the Orhei City Hall awarded a basic contract amounting to MDL 3,427,679.02 for the procurement of "Works for the extension of the public lighting in Orhei". Six bidders participated in the auction, and the winning company became Electrica S.A.

Contract implementation and contract monitoring

According to data on the procurement procedure "Works for the expansion of public lighting in Orhei", which is available in RSAP, the contract is at the stage of execution. At the same time, it is indicated: Delivery date: 2 months. It is not known what this term refers to and when was its start date, since the CA does not ensure the necessary degree of transparency. Thus, without easily accessible information with regard to the procurement cost of about MDL 3.5 million and without knowing important things about this transaction, the inhabitants of the city do not have the possibility to follow how and if the works in question were carried out.

In situation in which on its official web page, the Orhei City Hall has not published any report on the execution of the procurement contracts, it is obvious that the data on the *"Works for the extension of public lighting in Orhei municipality"*, which was awarded since starting in March 2018, is also missing.

Contract awarded to LLC Brodetchi for "Services for preparation and delivery of food for children"

LLC Brodetchi is a company registered in Orhei, which is found for several years among the winners of the public procurement bids organized by the Orhei City Hall. Until now, procurement procedures amounted to the procurement of food supplies, and they were attended by many businesses - 10 or more. In fact, the object of the recent procurement of Orhei City Hall was a premiere for both the contracting authority and the economic operator. It was also a premiere because of the value of the contract which, in relation to the previous acquisitions, is considerable.

Budget and financing

In the budget of Orhei municipality, there is a chapter of general expenses for pre-school institutions - *"Early Education"*, which for the year 2018 were planned in size of MDL 34,224,200. A subchapter of expenditures, such as: *"Food"*, *"Food / Feeding Children"* or *"Child Food Preparation and Distribution Services"* does not exist. On 22.06.2018, the budget was rectified and the expenditure part was supplemented by MDL 3,266,700 for *"Services for preparation and delivery of food for children attending public institutions of early education in Orhei."* This was done after the contract amounting to MDL 6,880,860.00, for these services, had already been awarded.

Planning and the elaboration of awarding documentation

The notice of intent to conduct the public procurement "*Services for preparation and delivery of food for children*" has not been published in the BAP or on the contracting authority's website.

The purchase plan for the year 2018, which was published on the official website of Orhei City Hall in the middle of May stipulates, for the same month, the organization of an auction for Food Preparation and Distribution for Children with an estimated amount of MDL 3,000,000.

Worth noting is the fact the same plan stipulates that another tender also scheduled for May was to take place, the purpose of which was to acquire "*Food Products for the Second Half of 2018*" for an estimated amount of MDL 3,000,000. Although this acquisition was planned, there is no information on its organization or on other stages of such a procurement procedure on the PPA website and other open data sources. Judging by the estimated sums of the two purchases planned for feeding children in kindergartens, the Orhei City Hall merged and launched a single procedure, which it concluded by awarding a contract of MDL 6,880,860.00 for "*Services for food preparation and delivery for children*".

Elaboration of awarding documentation

The notice of intent to conduct the public procurement "*Services for preparation and delivery of food for children*" has not been published in the BAP or on the contracting authority's website.

The Purchase Plan for the year 2018, which was published on the official website of Orhei City Hall in the middle of May stipulates, for the same month, the organization of an auction for Food Preparation and Distribution for Children with an estimated amount of MDL 3,000,000.

The awarding documentation (the task book or descriptive documentation, the datasheet - instruction to bidders, contract drafts, bid blanks,) has not been published on the contracting authority's website so that it is accessible to businesses but also to the public. Open data from the RSAP provides the opportunity to learn only a small part of the information of public interest regarding the purchase of "*Services for food preparation and delivery for children*". In the invitation for participation, it is mentioned that the bidders must participate in the procurement procedure, "according to the menu and the attached task book". In the invitation, it is also mentioned that the source of the finances for the acquisition is the local budget, and the deadline for the delivery/ execution/execution requested is 01.07.2018-31.12.2018. Below are listed the documents/qualification requirements for economic operators, and also the following information:

Interested economic operators may obtain additional information from the contracting authority and familiarize themselves with the requirements of the tender documents at the address indicated below:

*Name of the contracting authority: **Primăria Orhei***

*Address: **Orhei, 160, V. Mahu Street, tel.: 060567503, Fax: 023523740, E-mail: c.tatiana83@gmail.com***

*Name and position of responsible person: **CRAVCENCO MARINA**, deputy mayor*

***The set of documents** can be received at Orhei City Hall, 160 V. Mahu Street*

Economic operators wishing to submit bids for this procedure are to submit a request for participation (with a clear indication of the name, address, telephone number of the contact person and the name of the person empowered by the Participant).

***NOTE:** This requirement DOES NOT refer to bidders who registered in the procedure and accessed the documents within the SIA Public Procurement State Register.*

Submitting bids:

*The requested offer and the required qualifications documents, without corrections, with the number and date issuance, with the signature of the responsible person, in a sealed and stamped envelope, **are to be submitted by 30.05.2018, 10:00** at Orhei, str. V. Mahu, 160.*

Delayed bids will be rejected.

The validity of bids: 30 days

Bid offers will be opened in the physical (or by electronic means) presence of the members of the working group of the contracting authority and of the representatives of the participants in the auction on 30.05.2018, at 10:00 at Orhei, str. V. Mahu 160.

Offer Guarantee: All bids must be accompanied by a bid guarantee in the form of a bank letter guaranteeing 2% of the amount

Launching the procurement procedure, submitting and opening the offer bids

The notice with regard to the public tender no.18 / 01617, with the object of procurement "Services for preparation and delivery of food for children" was published in BAP no. 32, of 24.04.2018. According to the announcement, the person responsible for the procurement procedure is the vice-mayor Marina Cravenco, which may indicate a higher importance that CA has conferred to this particular procurement, compared to other procedures, for which procurement specialists are responsible.

The deadline for the submission of bids and the deadline for the public procurement procedure was set for 30.05.2018, at 10:00.

Public tender Nr. 18/01617

Contracting authority	Primăria Orhei
Address	Orhei, str. V. Mahu 160
Telephone/fax	023523981
Working group member responsible for the procurement procedure	CRAVCENCO MARINA
Object of procurement	Services of preparation and delivery of food for children
Code CPV	15894200-3
Place of issuance of documents/taskbook	Orhei City Hall, str. V. Mahu 160
Place of the procurement procedure	Orhei, str. V. Mahu 160
Language for the elaboration of the standard documentation/taskbook	State language
The tax for the tender documentation printed on paper is	0.00
The bank requisites of the accounts needed to pay the tax:	
The Bank	Ministry of Finances – State Treasury
Treasury account	TREZMD2X
The bank requisites of the offer guarantee account:	
The bank	Ministry of Finances – State Treasury
Treasury account	TREZMD2X
The bank requisites of the contract guarantee account:	
The bank	Ministry of Finances – State Treasury
Treasury account	TREZMD2X
Deadline for bid submission	30.05.2018 10:00
Deadline for public procurement procedure	30.05.2018 10:00
Additional data on the procurement procedure: http://etender.gov.md/proceduricard?pid=27076367	

The evaluation of bids and contract awarding

In open data sources, there is no information on the way in which the evaluation of the offers submitted for the public tender of 30.05.2018 with the object procurement of "Services for preparation and delivery of food for children" was conducted. A little idea on this is given by the data published in the RSAP according to which, the evaluation criterion for awarding the contract was the lowest price.

Contract implementation and contract monitoring

According to the data on the procurement procedure for "Services for preparation and delivery of food for children", which are available in RSAP⁵, the contract, which was awarded on 15.06.2018, is at the stage of execution. The delivery date, indicated by the same source, is 01.07.2017-31.12.2017.

Monitoring the procurement procedure

In the 2018 purchase plan of Orhei City Hall, there are included 64 procurement procedures. On May 15, when the Plan was published on the official website of the City Hall, in accordance with thereby outlined deadlines, most of the acquisitions - about 50 of them - should have already been carried out.

For May 2018, 11 procurement procedures were planned in the purchase plan. Of these - 5 low-value contracts (LVC), 4 RPQ and 2 PT.

In the BAP, however, only one of the planned procedures was found, namely a notice for participation in the PT of 30.05.2018, concerning procurement of *"Services of preparation and delivery of food for children"*. Thus, in May 2018 none of the four planned RPQ were organized.

According to the purchase plan, in June and July 2018, one procurement procedure was to take place, namely the RPQ for the *"Roof for the storage of anti-skid materials and the LVC for drug purchases."*

No announcement of participation in the RPQ planned for June was published in BAP. Instead, there have been published announcements to participate in three procedures, which are not included in the purchase plan for the year 2018. These are an RPQ, with the opening of the bid offers on 14.06.2018 (later - 05.07.2018, and then 26.07.2018) and two PTs, with the opening of the bid, offers on 11.07.2018 and on 30.07.2018, respectively.

Procurement procedure – RPQ *"Internal and external repair works of the sewerage network at kindergarten no. 12 of the Orhei municipality"*

The financing of these works has become possible due to the allocation of MDL 584,600 through the Orhei Municipal Council Decision no.1.15 of 02.03.2018.

The notice of intent for the procurement procedure *"Internal and external repair works of the sewerage network at kindergarten no. 12 of the Orhei municipality"* was not published in the BAP editions of 2018, nor on the Orhei City Hall website.

Similarly, in the municipality's purchase plan for 2018, this acquisition was not included.

The announcement for the participation in the procurement procedure through the RPQ no. 18/02321, was published in BAP no. 43 of 01.06.2018, and the invitation to participate is available in RSAP.

According to the mentioned sources, the deadline for submission and opening of bid offers was set on 14.06.2018, while the bids had to be submitted according to the tender specifications. The deadline for delivery/ performance/execution was indicated as *30 days from the registration of the contract*, while the criterion for the evaluation of the bids was *the lowest price*.

⁵<http://etender.gov.md/proceduricard?pid=27076367>

On June 11, 2018, IDIS "Viitorul" filed an application with the CA (the Orhei City Hall) for the inclusion of a representative of the civil society in the working group. On the evening of June 13, 2018, the City Hall responded that the request cannot be approved because, in the working group, which is made up of 9 members, there were already included two representatives of the civil society.

On June 14, 2018, the working group, headed by Deputy Mayor Regina Apostolova, including two members who were introduced by their name and surname and as a "civil society members", met at the opening session.

For this procurement procedure, two economic operators from Orhei, LLC Climatec and JSC Regia Apă Canal Orhei SA submitted their offers. From the content of the envelopes, which were unsealed at the meeting, it became known that one of the offers is smaller, while the other is over MDL 500,000 (VAT excluded).

The working group chairman, Reghina Apostolova, said the acquisition procedure cannot be carried out due to the fact that there are only two offers, and she has ordered the publication of a new notice of intent for the same procurement.

The notice was published in BAP no.49 of 22.06.2018 as an announcement for RPQ no.18 / 02720, with the submission of bids until 05.07.2018 and with the opening of the offers during the meeting of the working group which was to be held at the same time. An economic operator from Călărași - LLC Vaspus also submitted an offer for the procedure, but on 05.07.2018 the session was postponed due to lack of quorum - a few members of the working group were absent for various reasons. The provisions of point 19 of the HG667 / 16 stipulates that if one of the members of the working group is absent for a valid reason, it has to be replaced. The absence of the members of the working group denotes a total lack of accountability on the CA side.

Another notice was then published in BAP no.55 of 13.07.2018 announcing the RPQ no. 18/03134, with the deadline for the submission of bids until 26.07.2018 when the opening of the bids was also to take place.

On July 26, 2018, the envelopes of three economic operators were unsealed at the opening of the bids. The first was the envelope of DIF & W LLC of Anenii Noi.

After the deputy mayor Reghina Apostolova unsealed the envelope, the public procurement specialist, Violeta Morari, disclosed the value of the offer and listed the documents submitted by the bidder. The same was done in the case of two other offers - of Vaspus LLC of Călărași and Climatec LLC from Orhei. The amounts of the offers, with VAT, amounted to 1) about 508,000 lei, 2) over 547,000 lei, and 3) 575,440 lei.

Reghina Apostolova announced that the working group will evaluate the offers within the prescribed deadlines and that the results will be communicated to the bidders in written form.

Noteworthy is the fact that as in the previous session, the third one of 26.07.2018 was attended by a representative of LLC Climatec.

In connection with this procurement procedure, it is necessary to mention the following: on 18.06.2018, a request for public information was filed at Orhei City Hall requesting answers to the following questions: in whose behalf the two persons, introduced as "Civil society members", were included in the working group. Information was also requested whether and when a drawing procedure was organized for the inclusion of civil society representatives in the working group. A copy of the minutes on the civil society representatives' inclusion was also requested.

By the letter of 9 July 2017, signed by Mayor Ilan Șor, the requested information was strangely denied, while the essence of the answer can be summarized by the assertion that all information of public interest was available on the official website of the City Hall.

Towards the end of June, an official referral was addressed to PPA thereby notifying the agency of the fact that the CA had not organized a draw in order to establish which civil society representatives were to become members of the working group for the RPQ "Internal and external repair works of the sewerage network at kindergarten no. 12 of the Orhei municipality". On this occasion, the PPA was also notified of other irregularities that the Orhei City Hall admits in the field of public procurement.

It is worth mentioning that, by chance or not, on 29.06.2018 (after notification of PPA) on the website of Orhei City Hall, three invitations to participate in procurement procedures were published, among which also the "Internal and external repair works of the sewerage network at kindergarten no. 12 of the Orhei municipality".

It should also be mentioned that on 21.07.2018 (5 days before the tender), the invitation to participate at RPQ no. 18/03134, the task book and the datasheet procurement procedure were published on the City Hall website⁶.

Procurement procedure PT "The execution of the thermal rehabilitation works, the modernization of the building elements and of the facilities of the kindergarten no.8, within the project "Demonstrative project for sustainable energy development in the city of Orhei". 0 quote"

In this case, the works are being carried withing the "Global Demonstration Project for Sustainable Energy Development in Orhei" funded by the European Commission.

The notice of the procurement procedure was not published in the BAP editions of 2018, nor on the Orhei City Hall website.

The invitation for participation in the PT No.18 / 02006 was published in BAP no.45 of 08.06.2018, and is also available in the RSAP.

On 29.06.2017 the announcement and the invitation to participate in the PT No 18/02006 have also been published on the web page of Orhei City Hall.

According to the mentioned sources, the deadline for submitting and opening bids was set for 11.07.2018, the offers being submitted according to the task book. The deadline for delivery/performance/execution was indicated as 4 months, and the criterion for the evaluation of the bids was the lowest price.

Perhaps because of an error, in the RSAP system⁷, the status of the procedure was indicated as completed, which was impossible because the tender of July 11, 2017, failed due to the fact that there was no submitted offer. More precisely, according to the head of the working group, deputy mayor Reghina Apstolova, the one tender which was submitted for this auction had been withdrawn by the bidder a few minutes before the opening session. Apostolova ordered that a new contest be announced for the procurement of the planned works.

⁶<http://orhei.md/index.php?pag=news&id=764&rid=2437&l=ro>

⁷<http://etender.gov.md/proceduricard?pid=27626857>

There was no reply from the CA to the request to include in the working group of a representative of the civil society, which was filed by IDIS Viitorul with Orhei City Hall on 05.07.2016.

Procurement procedure PT "Cogeneration plant within the project "Demonstrative Project for Sustainable Energy Development in ORHEI"" under the project "Demonstrative Project for Sustainable Energy Development in the City of Orhei. 0 quote (zero)"

The second PT of July 2018 is also part of the "Cogeneration plant within the project "Demonstrative Project for Sustainable Energy Development in ORHEI" under the project "Demonstrative Project for Sustainable Energy Development in the City of Orhei. 0 quote (zero)". The launching of this procurement procedure can be found both in the tender announcement no. 18/02730 of 30.07.2018, published in BAP no. 49 of 22.06.2018, as well as on the CA website, where the invitation for participation was published on 29.06.2018.

On the announced date of 30.07.2018, starting at 13:00, a working group meeting was held, during which a single bid offer submitted for the auction was opened. According to the working group chairman, Deputy Mayor Reghina Apostolova, the offer was submitted to CA two hours before the session. The economic operator participating in the competition turned out to be a Turkish company "Sevde Mimarlik", registered in Ankara. It was stated that the price offer, including the delivery, is of MDL 218.700, with the country of origin being Austria. The presented documentation was in English, while the evaluation of the offer had to be done within a maximum of 10 days. Subsequently, the approval of the sponsor was suggested to be sought, because of the fact that the tender had only one bidder. According to the point 150 (1) of the HG 669/16, the CA has to cancel the procedure proved there are not at least three bidders who meet the prescribed qualification conditions. Therefore, the procurement procedure had to be canceled and repeated.

Noteworthy is the fact that two representatives of the working group of this project, which is implemented in Orhei with funding from the European Commission's, participated in the meeting. They made a report on the opening of the offer indicating the documents presented by the bidder, and noting that the offer came from a company, but not a consortium.

Members of the procurement working group did not put forward any other proposals or objections, and the session convened for an opening of the bids was declared closed.

Conclusions and recommendations

In this procurement monitoring report, were described and analyzed public procurement procedures and contracts, taking into account their financial and public impact. The entire procurement cycle, from the planning stage to the contract execution stage, was subjected to monitoring, to the extent which was allowed by the accessibility and the availability of the data. The observation by Orhei City Hall of the provisions of the legislation in the public procurement field, and implicitly the efficiency of the public money usage was also analyzed and monitored.

In the case of the groundless, even illegal, refusal to include the representative of the civil society as part of the procurement workgroup, we have notified the PPA, which, in its July 16

answer, responded that it had examined the request and warned the CA with regard to the correct application of the legal provisions. The PPA also stated that the information reported in the filed request will be added to data which will be examined at the stage of selecting the public procurement procedures for the ex-post control.

In the light of the findings of this report, it seems reasonable that further controls at the Orhei City Hall should be initiated in the near future by competent bodies such as the Financial Inspectorate. The 4-5 year intervals between the audits by the Court of Accounts are too long, and the detection of infringements may be delayed, especially if the authorities responsible for fraud and irregularities have already completed their mandate.

Regardless of the actions of the control agencies, it is certain that the civil society should continue to monitor public procurement procedures, including those carried out at the local level. This activity is one of the safest means to further inform citizens about the manner in which the public money is used to purchase goods, services and works.