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**Project "Cutting edge improvements in the public
procurement system in Moldova through
inclusiveness, creativity and
law-abiding practices"**



Acest proiect este implementat de
IDIS „Viitorul”

**The object and subjects of the public procurement.
The working group for public procurement.**



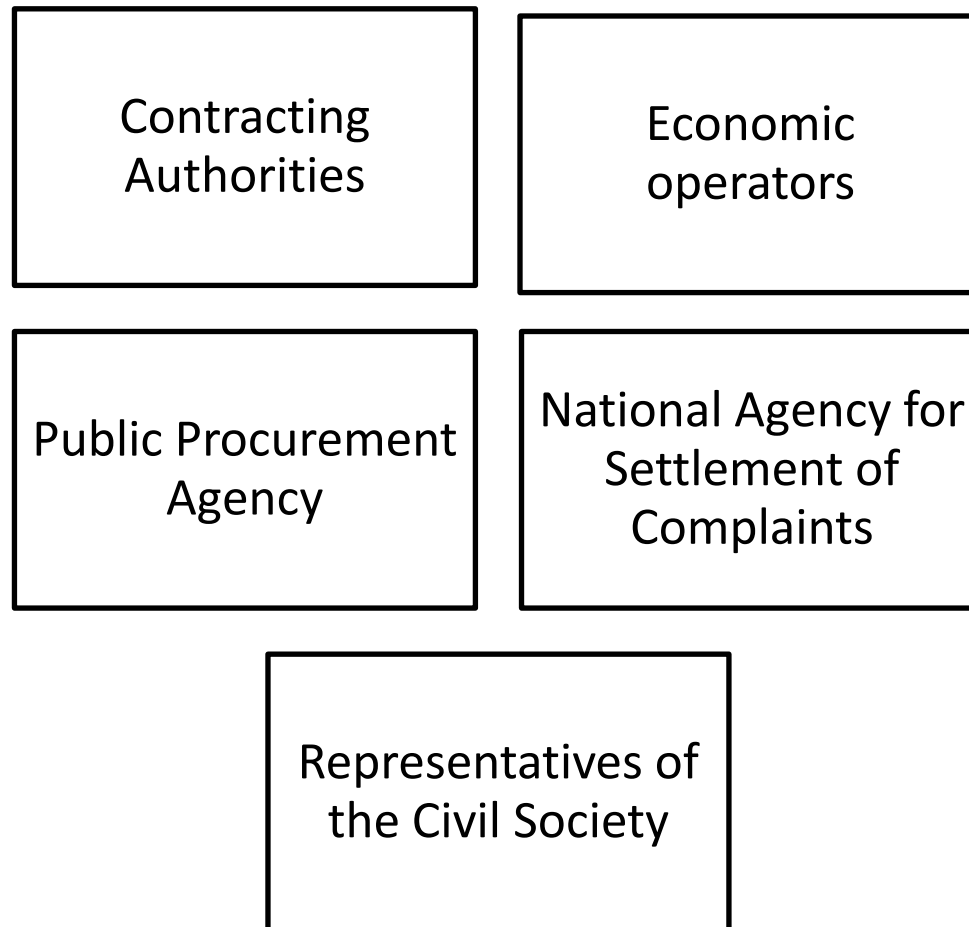
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Subjects/actors of the public procurement:





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Contracting authorities (*art.12*):

- Public authorities;
- Legal entities of public law;
- Associations made up of one or more of the types of contracting authorities;
- Contracting authorities which were qualified as such by the Government Decision;
- Another entity which was qualified as contracting authority at own discretion or under decision of the competent management bodies;
- Central procurement unit – a concept provided by art. 12, par. (6) of the Law on public procurement and which refers to the public authority appointed by the Government for centralized organization and conduct of the award procedures.



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Legal entity of public law is any entity:

- created exclusively for the purpose of meeting the needs of public interest, without profit (industrial or commercial);
- with legal personality;
- whose activity is ensured with public money or whose management is subject to control by public authorities or other legal entities of public law, or whose board of administration, of directors or of supervisors is formed in a proportion of more than 50% of the members appointed by the entities referred.



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- The contracting authority is an **association of contracting authorities**, whose members appoint from among themselves by a civil legal instrument a legal entity which represents them as a sole buyer in relations to any economic operator.
- By **Government Decision** other legal entities that have the obligation to carry out public procurement may also be qualified as contracting authorities.
- Any other entity** - at the discretion or decision of the competent management bodies, provided that the procurement is made in strict accordance with this law.



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The contracting authority is also the **central procurement authority** in order to meet the needs for the same goods, works or services of several contracting authorities.

State Road Administration –
Government Decision No. 678 of 19.07.2001

Center of Centralized Public Procurement in the Health
Sector - Government Decision No. 1128 of 10.10.2016



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Economic operators (*art.15*) -

supplier of goods, works contractor and/or service provider, which can be any natural person or legal entity, any public entity or association of such persons and/or entities that supply goods, perform works and/or provide services on the market;

suppliers of
goods

works
contractors

service
providers



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Participation of an economic operator in public procurement procedures (*art. 15*)

- Any economic operator has the right to participate in an award procedure for a public procurement contract.
- A foreign economic operator enjoys the same rights in the Republic of Moldova regarding participation in the award procedures for public procurement contracts
- Economic operators can associate for the purpose of submitting bids and/or may present themselves as associated bidders.
- The bidder/candidate who is empowered to perform a certain activity can not be excluded from an award procedure



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Civil society refers to various organizations and associations which are not part of the public domain of the state and the economic area:

- all non-governmental organizations and institutions that express the interests and will of the citizens;
- individuals and organizations in society independent of the Government.



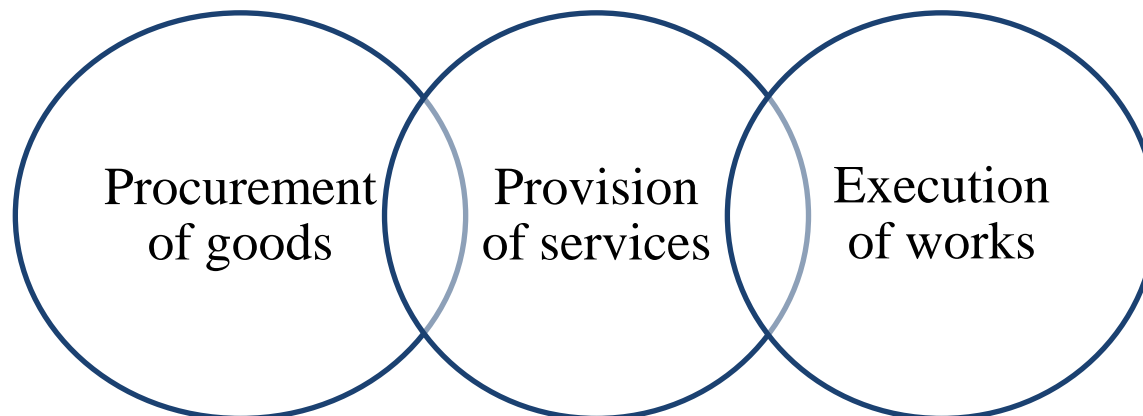
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The object of the public procurement can be:



- A public procurement contract, which has as its object both the provision of services and the execution of works is:
 - 1) contract for public procurement of services => EV services > EV works;
 - 2) contract for public procurement of works => EV works > EV services.
- A public procurement contract, which has as its object both the supply of goods and provision of services is:
 - 1) contract for public procurement of goods => EV goods > EV services ;
 - 2) contract for public procurement of services => EV services > EV goods.



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**Estimated value =
total amount to be paid - VAT**

The need to calculate the estimated value:

- Determining the necessary financial means
 - Determining the procedure type
 - Implications at the award results



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The working group for public procurement

Government Decision No. 667 of May 27, 2016

- Decree / decision of creation
- One or more working groups
- As a rule 5 members
- Establishment of all duties/responsibilities
- Recording the replacements of the missing members in the minutes
- Minutes signed by all members in a mandatory manner
- Separate opinion – to be indicated in the minutes
- The composition of the working group will be communicated to the economic operators present at the tender-opening session.

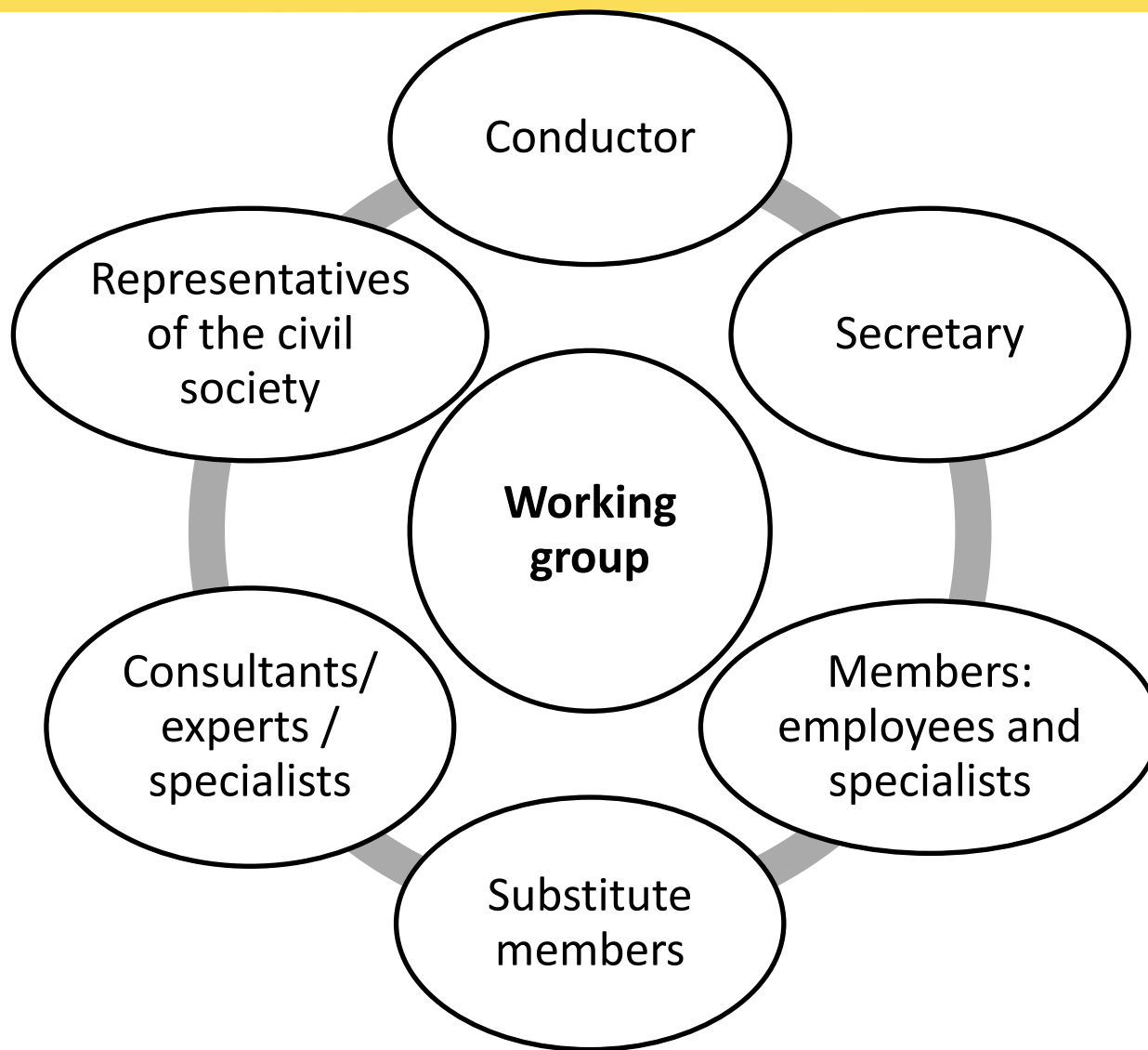


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Members are required to fill in a statement of confidentiality and impartiality before the opening session.



All necessary measures must be taken to avoid the occurrence of situations that are likely to cause a conflict of interest and/or to allow unfair competition.



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Representatives of the Civil Society

The request written two days before the deadline for bid submission,
which will contain at least:

- Name of the organization;
- Name and surname of its representative;
- The copy of the document confirming the authority or name and surname of the natural person;
- Legal and mail address or home address;
- Contact details, including electronic address;
- Procurement procedure to which it requests to be included in the working group.

Note: If the request does not meet the prescribed conditions, the contracting authority shall return the corresponding request for appropriate drafting



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Representatives of the Civil Society

Can not be more than one-third:

- If the number of requests submitted exceeds the admissible number in relation to the number of the voting members, the working group shall appoint applicants to be included in the working group by making the draw.
- *In order to make the draw the working group in the presence of representatives of the civil society prepares a number of tickets equal to their number and marks them with figures 1, 2, 3... N*
- In case of the absent representatives of the civil society the envelope with the order number will be drawn by the president of the working group or, where appropriate, by one of its members, which fact shall be recorded in the minutes.
- The working group will draw up the minutes on the ranking of the representatives of the civil society, including those which will be included in the working group, and which will be signed by all its members. Each participant in the draw is given a copy of the minutes.



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Representatives of the Civil Society

- advisory capacity or the right to separate opinion;
- the working group shall draw up a Register of the requests received from the civil society;
- inclusion of representatives of the civil society in the working group shall be carried out for each procurement procedure separately.
- the working group activates according to legal provisions in force observing the principles of:
 - transparency;
 - publicity;
 - objectivity;
 - impartiality;
 - efficiency.



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The working group performs the following functions:

- examines and details the needs of the contracting authority for goods, works and services;
- draws up and submits the notice of intent for publication;
- initiates and carries out the corresponding procurement procedure provided by legislation;
- prepares announcements and/or invitations to participate in public procurement procedures;
- develops award documentation and other documents applicable within the public procurement procedures;
- examines, evaluates and compares the economic operators' offers submitted under the public procurement procedures;
- awards public procurement contracts concluded by the contracting authority and economic operators;
- prepares the necessary documents to sanction the economic operator in case of improper fulfillment of the contractual clauses;
- draws up the report on the procurement procedures or contract amendment;
- monitors the appropriate execution of the public procurement contracts;
- stores and keeps track of all documents drawn up and applied in public procurement procedures.



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Actions of the working group:

- At the time indicated in the award documents the working group will open the bids submitted by economic operators and will read all the documents submitted during this procedure, following which the submitted bid will be signed by all members of the working group.
- At the time of opening the bids the working group does not take any decision to reject or determine the bid as winning.
- The working group examines the bids confidentially and does not disclose information regarding the examination, evaluation and comparison of bids to the bidders or persons not officially involved in these procedures or in the identification of the winning bid.

Violation by the working group members of the provisions of the legislation in the field of public procurement incur liability according to the legislation.