



Acest proiect este
finanțat de către
Uniunea Europeană

**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”

Competition in the public procurement market and detection of anticompetitive practices



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Public Procurement Law No. 131/2015

**The principle of public procurement –
ensuring competition and combating
unfair competition in the field of public
procurement**



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Public Procurement Law

No. 131/2015

Art. 37. p. (7) Technical specifications should provide any bidder with equal access to award procedure and should not have such effect as introducing some unjustified obstacles which restrict competition among economic operators.



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Public Procurement Law

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**Art. 67. Cancellation of public procurement
procedure.**

**The contracting authority on its own initiative shall
cancel the procedure for the award of public
procurement contract in case if it was not possible
to ensure a satisfactory level of competition and the
number of bidders/candidates is lower than the
minimum number set out for each procedure.**



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Art. 74. During the procedure for the award of a public procurement contract the contracting authority is obliged to take all necessary steps to avoid the situations that are likely to result in a conflict of interest or/and unfair competition.



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Regulation on the mode of drawing up a blacklist of economic operators (Decision No. 1418/2016)

14. The grounds for which an economic operator may be included in the blacklist are as follows:

4) There is evidence provided by a contracting authority or an inspection body demonstrating that economic operators used fake offers in procurement procedure, or participated as members of a group of undertakings dependent on the same public procurement procedure with multiple offers or caused unfair competition among the participants.



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Competition Law No. 183 as of 11.05.2012

The actions to restrict competition within public procurement procedures by the undertakings:

Art. 5 – are prohibited, no prior decision to the effect being required, any agreements between undertakings or associations of undertakings, any decisions by associations of undertakings and any concerted practices which have as their object or effect the prevention, restriction or distortion of the competition on the market of the Republic of Moldova or part of it directed in particular to:

- *Participation with bid rigging in auctions or any other forms of competitive tendering*
- *Sharing markets or sources of supply*



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Competition Council

An autonomous public authority that ensures enforcement of legislation and compliance with it pertaining to competition, state aid and advertisement. The aim of the Council's activity is to ensure compliance with the legislation related to competition through the actions on prevention of anticompetitive practices, elimination of competitive violations, promotion of competitive culture. The Council enquires into anticompetitive practices and agreements, **including participation with bid rigging in undertakings' procurement tenders.**



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The problems invoked by Competition Council

- delayed information/failure to inform the Competition Council regarding possible signs of competition law violations
- deficiency in monitoring procurement procedures
- lack of an electronic program based on systematic analysis of the undertakings' offers submitted within the procurement procedures
- lack of a program to monitor contracts' execution
- more time is needed to obtain information (interpellations, requests, etc.)



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The impact of tender fraud

- Reducing the resources of the buyer that could be used for other goods or services
- Undermining the benefits of a competitive market
- Lower public trust
- Use of low-quality products
- The barriers to market entry