

# Furniture instead of medicines, “Great Construction” and inflated prices. The AntAC analyzed the year of COVID procurements

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The NGO Anti-Corruption Action Center analyzed procurements conducted according to tender-free procedure within framework of counteracting the pandemic. Our analysis revealed numerous customer abuses.

We should recall that exactly one year ago, on March 20, the Cabinet of Ministers of Ukraine by [Decree](#) No.225 allowed hospitals and other institutions to procure medicines and medical equipment to combat COVID-19 without tender with self-selected suppliers in order to combat coronavirus disease more effectively.

As of March 9, 2021, more than 144,000 procurements with agreements worth 30 billion UAH were [made](#) according to this procedure from state and local budgets.

## **The Anti-Corruption Action Center described typical schemes of customers during COVID procurements:**

### 1. Significantly inflated prices

For instance, despite the fact that VAT [is not paid](#) for goods, works and services to combat COVID-19, customers have managed to procure [boot covers](#), [protective suits](#), [testing](#) for COVID-19 and other goods with significant overpayments. The difference in prices between the most expensive and the cheapest medicines sometimes reached almost [700%](#).

### 2. Procurements of goods and services that are not provided by the list of Decree No.225

The specific list of medicines and medical equipment and other goods and services defined by the government in the Decree did not prevent customers from procuring [furniture](#) and door plates, medicines for [digestion and joints](#), [petrol](#) and other goods not from the list.

### 3. Non-disclosure of procurement agreements

The law requires to download scanned copies of agreements on procurement with all attachments. However, customers often [ignore](#) this requirement. The less information is published, the more opportunities for abuse.

### 4. Impossibility of monitoring Covid procurements by the State Audit Service

Such procurements continue to be beyond actual control of state auditors, as they are deprived of opportunity to conduct their most operational control measure online, namely procurement monitoring. Only with its help the State Audit Service could detect violations of the law in few days. Therefore, in order to detect violations auditors still need to conduct complex and long-term planned [measures](#) of financial

control offline.

Also in this context it is worth to mention that spending expenditures from COVID fund not to combat the pandemic. Thus, almost half of funds of the COVID-19 Acute Respiratory Disease Response Fund to fight the SARS-CoV-2 coronavirus infection and its consequences, namely 31.4 billion UAH was allocated to the program Great construction. This is the construction and repair of principal roads. It is worth to note that some Highway Services have classified and [refused](#) to provide the Anti-Corruption Action Center with detailed estimates for repair, which could show possible overpayments and overpricing.

Moreover, 1 billion UAH was [provided](#) from the Fund to the Ministry of Culture and Information Policy of Ukraine for state support in the field of culture, tourism and creative industries.

Experts from the Anti-Corruption Action Center have identified five specific steps that need to be taken to eliminate these abuses:

- 1. Development methodological recommendations for procurers of goods, works and services to combat COVID-19 by the Ministry of Health of Ukraine, which will describe in detail and with examples the algorithm of procurement without abuses and violations**
- 2. Creation of single information source, that is based on information from procurement system ProZorro, will publish average procurement prices to combat COVID-19, on which customers will be possible to focus on**
- 3. Introduction of direct administrative responsibility for procurement of goods or services not from the list of Decree No.225.** In response to complaints of the AntAC about violations of the law, customers usually [respond](#) that such violations were committed in interests of patients' lives and health. However, lawyers of the AntAC point out that medicines needed for treatment of COVID-19, which are not included in the list of Decree №225, should be amended by this Decree, and not procured in violation of the law.
- 4. Introducing legislative changes that will allow the State Audit Service to conduct accelerated monitoring of COVID procurements.** It is expedient to make the subject of such monitoring not only compliance with the procedure of COVID procurements, proper disclosure of information, procurement of goods, works and services from the list of Decree №225, but also compliance during procurements of all current legislation (in particular, regarding provisions of the Civil and Commercial Code), because, for instance, often when suppliers violate their obligations (late delivery of goods, low-quality goods), customers for some reason are in no hurry to make claims to them, to apply financial sanctions. The State Audit Service should be able to use already existing system (with peculiarities for "COVID" procurements) of "risk indicators" for monitoring which will automatically detect typical violations. Given the huge amount of such work, the staff of the State Audit Service will probably need some increase.
- 5. Return of COVID procurements under the Law on Procurement regarding obligatory holding the competitive tender or at least simplified procurement procedure.** Today, the [draft law](#), which is being considered in the Parliament, proposes to eliminate exceptions for COVID procurements and implement them according to open tender procedure. The explanatory note states that current norm is used to procure goods at inflated prices and low quality and creates corruption risks. However, given increasing number of patients with COVID-19, such measures look quite radical. The Scientific and Expert Department of the Verkhovna Rada [has](#) the same position. The option to solve problem may be to introduction to return COVID procurement under the law "On Public Procurements", but not as open tender, and the so-called simplified procurement procedure, terms of which are shorter than terms of open tenders. This procedure provides for possibility of participation of several participants, and therefore, competition.

At the same time, so far absolutely nothing has been done by the Government to solve the problem of such mass abuses.

In its turn, there are positive [results](#) of activities of the NGO AntAC, according to results of our appeals, we have already received several responses from the State Audit Service on bringing authorized persons of

customers to administrative responsibility under part 1, article 164-14 of the Code of Ukraine on Administrative Offenses (in our case non-disclosure or violation of procedure of disclosure information on COVID procurement). We must pay attention that the State Audit Service must monitor the publication of agreements with attachments on Prozorro without any reminders.

So far, only administrative responsibility of persons, who are responsible for procurement in hospitals and other customers, is provided for violation of this single rule.