

# Framework Contracting in Ukraine: A Story of Success

**December 2015**



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## **Framework Contracting in Ukraine: A Story of Success**

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**December 2015**



This report describes the framework contracting component of the SIAPS anticorruption intervention. It was made possible thanks to the generous support of the American people through the US Agency for International Development (USAID), under the terms of cooperative agreement number AID-OAA-A-11-00021. The contents are the responsibility of Management Sciences for Health and do not necessarily reflect the views of USAID or the United States Government.

## **About SIAPS**

The goal of the Systems for Improved Access to Pharmaceuticals and Services (SIAPS) Program is to ensure the availability of quality pharmaceutical products and effective pharmaceutical services to achieve desired health outcomes. Toward this end, the SIAPS result areas include improving governance, building capacity for pharmaceutical management and services, addressing information needed for decision-making in the pharmaceutical sector, strengthening financing strategies and mechanisms to improve access to medicines, and increasing quality pharmaceutical services.

## **Recommended Citation**

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S. Kniazkov, T. Savchuk; 2015. *Framework Contracting in Ukraine: A Story of Success*. Submitted to the US Agency for International Development by the Systems for Improved Access to Pharmaceuticals and Services (SIAPS) Program. Arlington, VA: Management Sciences for Health.

## **Key Words**

Framework contracts, anticorruption, pharmaceutical management, public pharmaceutical procurement, Ukraine

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## ACRONYMS

ART	antiretroviral therapy
CSO	civil society organization
GDP	gross domestic product
MEDT	Ministry of Economic Development and Trade
MoH	Ministry of Health
MoI	Ministry of Interior Affairs
NGO	nongovernmental organization
PLWH	(network of) people living with HIV
SIAPS	Systems for Improved Access to Pharmaceuticals and Services
UAH	Ukrainian Hrivna (National Ukrainian Currency)
USD	US dollar

## ACKNOWLEDGMENTS

The authors gratefully acknowledge the contributions of the individuals listed below who shared their insights and offered invaluable contribution to the success of this activity.

- Igor B. Pereginets, Deputy Minister of Health
- Lilia V. Dudnik, Deputy Director, Ministry of Economic Development & Trade, Department of Public Procurement & State Orders
- Tetyana M. Dumenko, Director, Department of Rational Pharmacotherapy and Support of State Formulary System, Ministry of Health of Ukraine, State Expert Center
- Igor A. Makedonskiy, Director, Healthcare Administration, oblast of Dnepropetrovsk
- Victor P. Lysak, Director, Healthcare Administration, oblast of Poltava
- Natallia M. Shymko, Head Unit, Ministry of Economic Development & Trade, Department of Public Procurement & State Orders
- Olena O. Chumakova, Head Healthcare Economics Unit, Ministry of Economic Development & Trade, Department for Social and Humanitarian Sectors
- Nina I. Derdykulieva, SIAPS Regional Coordinator
- Sviatoslav V. Zhluktenko, SIAPS Consultant

## EXECUTIVE SUMMARY

Ukraine is going through one of the most difficult periods in its history. There was popular unrest in late 2013 to early 2014 followed by riots in the eastern parts of the country led to a severe economic recession. This was further complicated by rapid devaluation of the national currency, investment collapse, and drastic deterioration of social standards. All these placed Ukraine on the verge of a social catastrophe of unpredictable epidemiological proportions. Several failed rounds of centralized public tenders for pharmaceuticals and blockage of public funds in the antimonopoly litigations were regarded as a harbinger of the impending crisis in the public health sector. At this point, the Systems for Improved Access to Pharmaceuticals and Services (SIAPS) Program was requested to step in and provide technical assistance to improve the system of public pharmaceutical procurement and enhance the expertise of the selected regional health administrations and individual health care facilities. Framework contracting was viewed as the most effective procurement technique to ensure value for money in the contexts of decentralization and diverse regional specifics.

SIAPS led the implementation of framework contracting into the oblast procurement practices in two oblasts. Despite the regional focus of this intervention, the ultimate goal of SIAPS was to bring systemic changes into the health procurement system. It included work with:

- Regulators to rationalize the list of commodities and services eligible for procurement through framework contracts
- Civil society to capitalize on transparency and accountability framework for which contracting provides
- Regional authorities to ensure their understanding of framework contracting procedures and support in the fight against corruption
- Tendering committees within health care facilities to enhance their professional capacity in procurement and provide technical assistance leading to incorporation of framework agreements into the procurement plans
- Private sector to foster a better understanding of the benefits brought to them by these mechanisms, and to promote a wider participation of suppliers, consequently creating a more transparent and competitive market

The Action Plan included informational, educational, and technical components. The major achievements in framework contracting are inter alia education of a wider audience cutting across the public, private, and civil society organization (CSO) sectors on central and regional levels; creation of a favorable environment for framework contracting; and improvement in the policy and regulatory climate. Deliverables of the project include technical tools facilitating the processes of framework agreement conclusion and call-offs; compilation of legislation and regulatory acts; and creation of the framework contracting training curriculum with presentation materials, practical cases, and a Guide for Instructors. As a result of SIAPS's efforts, two

regulations were enacted (one on the regional level, Directive of Oblast Administration Head #249, and the other on the central level, amendments to Ministry of Economic Development and Trade [MEDT] Regulation #503) to enable health care facilities and the Oblast Health Administration to better serve patients by streamlining procurement practices for a broadened spectrum of commodities.



## BACKGROUND

For years, Ukrainian patient organizations, regional communities, and the civil society have been raising concern about the shortfalls of the Ukrainian procurement system for health commodities. Inefficient quantification techniques and opaque tendering procedures led to substantial waste of public funds and gave way to unjustifiable disbursements from central and local budgets. Only in 2012, the Temporary Parliamentary Committee reported “systemic abuses in the state system of procurement of drugs and medical products.<sup>1</sup>” Another report prepared by the Ministry of Interior Affairs (MoI) in the same year states that for selected medications, an aggregated total paid by the Ministry of Health (MoH) was 20 million Ukrainian Hrivna (UAH) (approximately 2.5 million US dollars [USD]) higher than it would have been in the reference countries.<sup>2</sup> Patient organizations, including the Ukrainian Patient Association, the Network of People Living with HIV (PLWH Network), and the Anticorruption Action Centre, compared expenses incurred by MoH and the PLWH Network for the procurement of antiretroviral therapy (ART) drugs. The unit prices MoH tenders yielded in 2012 were 1.5 to 3 times higher than the cost of the same medications paid for by the PLWH Network within the frame of Global Fund to Fight AIDS, Tuberculosis, and Malaria program. This implies an overpayment of another UAH 39 million (USD 4.88 million).<sup>3</sup> Drug supply contracts signed by the State Penitentiary System have prices even higher than those in the MoH contracts. Moreover, their reporting is far from being transparent, as some tender reports placed on the official Web site do not even provide detailed unit prices for drugs.<sup>4</sup> This situation is also typical for the procurement of health commodities by other state budget administrators, particularly those situated in the Ukrainian provinces.

In 2014, the ineffectiveness of the public procurement system was further aggravated by the rapid devaluation of the national currency and the introduction of a value-added tax for pharmaceuticals. Taken together, this led to the failure of the first round of the public procurement cycle, in which, for ART alone, the overwhelming majority of bids failed as a result of vendors submitting bids higher than the ceiling for the tender. Unless urgent and effective measures were taken, the country could have faced a problem of treatment interruption, which would mean inter alia increased incidence of multi- and/or extended-resistance cases. Coupled with the invasion and annexation of Crimea by Russia and the resulting war in Donetsk and Luhansk, which placed a heavy burden on the country’s finances, this state of affairs could have led to extremely serious epidemiological consequences of unpredictable proportions. This was the reason for the promotion of best international practices that could be rapidly adapted at the national level and that potentially offer the best price-for-value solutions in the supply chain of pharmaceuticals. SIAPS’s research found that, while legislation was passed in Ukraine in 2012 establishing the legal basis for framework contracting, it had never been utilized in the procurement of medicines or medical supplies, either at the central or regional level.

In order to better understand the contextual reality, SIAPS contacted different regions to assess the stakeholders’ needs and to better understand the existing barriers for adopting framework

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<sup>1</sup> <http://news.bigmir.net/ukraine/760080-Depytati-pidgotyvali-zvit-pro-zlovjivannya-y-MOZ-vimagaut->

<sup>2</sup> <http://nbnews.com.ua/ua/news/97930/>

<sup>3</sup> <http://nikorupciji.org/2013/06/20/analitchna-zapyska-z-pryvodu-faktiv-koruptsiji-pry-zdijsnenni-derzhavnyh-zakupivel-likarskyh-zasobiv-v-2012-2013-rr/>

contracts at the regional level. The findings revealed insufficient local understanding of the functional aspects of procurement systems, no positive experience in the practicalities of framework contracting, and no access to information on best international practices. Reportedly, regional procurement specialists have problems related to getting quality legal advice due to the absence of sufficient funds in the local budgets to pay for these services. This resulted in a lack of understanding of how to legally implement framework contracts. Additionally, the answers regional procurement specialists did receive were from various sources and were often in conflict.

Hence, the need for capacity building of the regional procurement entities was not only urgent, but also vital. To help improve the effectiveness of tendering processes, SIAPS took up a commitment to render technical assistance in the form of producing a series of trainings and informational seminars highlighting the advantages of framework contracting in the current context, developing technical tools, and fostering socially responsible involvement of the private sector. These efforts were aimed at improving patients' access to pharmaceuticals and ensuring best clinical outcomes in two oblasts which demonstrated a willingness to implement a pilot of this procurement mechanism.

## FACTS ABOUT UKRAINE

Ukraine is now considered to be a lower middle-income country, despite political instability contributing to an 8.2% contraction in gross domestic product (GDP) in 2014, and with a further 2.3% decline forecast for 2015.<sup>4</sup>

“During the first six months of 2014, the total value of the Ukraine pharmaceutical market, including hospital procurement and retail sales, was approximately USD 18.5 billion, for approximately 633 million units. This represents an approximately 12% increase in value compared to the same period in the previous year, but a decrease of approximately 5% in volume. The increase occurred entirely in the retail sector, as the hospital sector actually declined slightly (-3%) in volume terms, but decreased more in value terms (by approximately 17%). Taking into account the GDP contraction previously mentioned, which was accompanied by a currency devaluation of approximately 30% compared with hard currencies such as the USD or the euro, these figures are surprisingly good”.<sup>5</sup>

The pharmaceutical sector is dominated by out-of-pocket expenses, with patients paying for 94% of medicines and the public procurement system contributing the remaining 6%. The latter includes central- and regional-level procurements for the medicines which usually differ from one to another, depending on the level of procurements. The central procurement is administered by MoH tendering for drugs and medical commodities for 18 national programs. The efficiency of these programs is questionable, as some of them cover only 2-4% of the country’s needs. Regional procurements are generally carried out by health care facilities. In some oblasts, regional procurement entities are delegated the function of pooled procurement and price monitoring for the entire oblast.

The Ukrainian financial cycle encompasses one year and the most common procurement procedure is spot-tendering. In the structure of hospital finances, there are so-called “protected budget lines,” which are given the priority over other expenses. Such budget lines cover salaries, utilities, and taxes, but no pharmaceuticals or commodities. The latter are paid for with whatever funds remain after the protected expenses are met.

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<sup>4</sup> <http://data.worldbank.org>

<sup>5</sup> Conesa, S. *Report on medicine prices in Ukraine*

## REGIONAL FOCUS

When USAID granted the mandate for a pilot of framework contracting at the oblast level to SIAPS, the regional focus was new to SIAPS Ukraine. Previously, all interventions were conducted in cooperation with central governmental authorities, who were responsible for the regional outreach, when necessary. The Senior Technical Advisor for Supply Chain and the Project Director made a series of trips to three oblasts to assess their willingness and capacity for implementation. In the end, two oblasts were selected for the pilot.

### Oblast of Poltava

In October 2014, a number of fact-finding missions were conducted in the USAID-priority regions of Lviv, Poltava, and Dnepropetrovsk to take stock of the situation and kick off the project work. Poltava was the first region to sign the Memorandum of Understanding and Cooperation with SIAPS on October 9, 2014. This oblast, situated in the central part of Ukraine, is the mainstay of the country's economy. In 2013, its contribution to the national budget was twice as high when compared to the received subventions.<sup>6</sup>

Oblast	Transfer to national budget, billion UAH (USD)	Received from national budget, billion UAH (USD)	Proficiency, billion UAH (USD)	Proficiency per capita, UAH (USD)
Poltava	9,60 (1,20)	4,12 (0,51)	5,48 (0,68)	<b>3757</b> (470)

The three-tiered structure of oblast finances is based on the fact that oblast, town, and region authorities enjoy autonomy in their budgetary decisions. This is reflected in the structure of the health care system, with health institutions reporting to the oblast or town health administration, depending on the source of their funds. Some 54 facilities and PoltavaPharm pharmacy are directly managed by the Poltava Oblast Health Administration.

Procurement of drugs and other commodities for clinical needs is the responsibility of each individual hospital. The 2013 study conducted in the town of Poltava revealed that out of UAH 170 million (USD 21 million) allocated for health care, only UAH 116.83 (approximately USD 15) was spent for pharmaceutical procurement per capita in the inpatient care segment. This demonstrates how critical the need for streamlining procurement practices is in order to ensure cost-effectiveness of public expenditures. That need became vital in 2014, when centralized procurement did not materialize in time and the oblast had to rely on its own resources to fill the gap for most medicines throughout 2014, until the majority of procurements under the national programs resumed in December.

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<sup>6</sup> <http://censor.net.ua/r268512>

## Oblast of Dnepropetrovsk

On December 21, 2014, the oblast of Dnepropetrovsk signed the Memorandum of Understanding and Cooperation to formally introduce framework contracting in the region. Dnepropetrovsk province is another big contributor to the national budget, with a proficiency balance of UAH 6,19 billion (USD 0,77).<sup>7</sup>

Oblast	Transferred to national budget, billion UAH (USD)	Received from national budget, billion UAH (USD)	Proficiency, billion UAH (USD)	Proficiency per capita, UAH (USD)
Dnepropetrovsk	15,03 (1,88)	8,85 (1,10)	6,19 (0,77)	<b>1878 (235)</b>

The oblast finance structure for health care in Dnepropetrovsk is based on a centralized model, with town and regional budgets making contributions to the regional oblast budget, and subsequently receiving budget allocations back from the oblast. Such a financial structure is not typical for most Ukrainian oblasts. The structure was instituted under a pilot project, which ended in 2014. Nevertheless, the majority of hospitals in the towns and regions are still reporting to the Oblast Health Administration, making it one of the biggest administrators of public funds in the Ukrainian oblasts. Another distinctive feature of the oblast is its proximity to the anti-terrorist operations in the eastern regions of the country. Due to this, Dnepropetrovsk was among the regions responsible for shielding the rest of Ukraine from insurgency threats. The oblast took on the responsibility for the care of the wounded that were evacuated from the war zone and for the rehabilitation of the convalescents.

As a result, there was a need to optimize procurement techniques in order to ensure best clinical outcomes for both civilians and military personnel.

Considering the current financial structure and the challenges of the war-bordering region, the oblast was looking to systemically improve its tendering procedures, both at the individual health care facility level and in the oblast as a whole.

## Oblast of Lviv

The third oblast that was visited was Lviv. After meetings with the Public Health Administration and the International Relations Office, officials conveyed that trainings on framework contracting were not a priority of the Lviv oblast at that time. SIAPS made the case for the potential advantages of using framework contracts, but the officials claimed that all procurements in Lviv were carried out at the facility level without any problem, and they saw no reason for a change.

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<sup>7</sup> <http://censor.net.ua/r268512>

## **REGULATORY FRAMEWORK**

Framework contracting was introduced into the Ukrainian public procurement legislation in 2010, but its practical implementation was only made possible in 2012 with the introduction of four regulations governing major aspects of framework contracting. When, in April 2014, a new public procurement law was passed, framework agreements merited a separate section—article No. 13—which, along with the four regulations mentioned above, constitutes the regulatory basis for framework contracting. Other pieces of legislation relevant to this tendering mechanism include such documents as laws, decrees of the Cabinet of Ministers, regulations of MEDT, and letters of explanation issued by MEDT.

### **Roles and Responsibilities**

In the aforementioned documents, responsibilities for framework contracting are shared between the Cabinet of Ministers and MEDT. Specifically, aspects related to framework agreement conclusion fall under the authority of the Ministry, whereas regulation of framework contract implementation is the responsibility of the Cabinet. The Ministry is also a methodological lead in all public procurement issues; in compliance with the general rule, the authority for complaint review was delegated to the Antimonopoly Committee.

## STRATEGY

Assessment of oblast needs revealed four major gaps that had to be bridged:

1. There was no easy-to-grasp information about framework contracting. Convolved provisions of (sub-) legislative acts and the lack of positive experience in framework contracting resulted in unreliable information being circulated by word of mouth.
2. Typically, tendering committees did not have professional procurement staff. All of their members were employees of the health care facilities, who were required to conduct procurement in addition to their “essential” professional functions. Hence, there was low qualification and insufficient knowledge of procurement procedures and regulatory requirements. To make matters worse, health facilities were not mandated to have tender committee members trained and, thus, could not justify any budget spending for this expense.
3. Public procurement relies on a fragmented system with no real national forecasting and procurements taking place at a national, regional and facility level which does not offer an opportunity to have an overall picture of the country’s needs covered through procurement efforts of the various stakeholders. Additionally, current procurement regulation does not allow for price negotiation, nor does it allow for negotiation of volume-based rebates.
4. Lack of transparency in tender evaluations and awards has resulted in the lack of motivation among many pharmaceutical suppliers to participate in public tenders. As a result, public sector procurement has been dominated by a handful of companies who do not face any significant competition, leading to less-than-optimal prices in public sector procurement.<sup>8</sup> Furthermore, there have been accusations of collusion between the major suppliers such that they are able to obtain prices well above the market, therefore securing unfairly high profits for themselves at the cost of the citizens of Ukraine.

### Conceptual Approach

SIAPS developed a three-pronged approach to address the above-mentioned critical points in the process of introducing framework contracting into the procurement practice of tendering committees. This strategy included:

1. Capacity building of tendering committees
2. Regional outreach to inform a wide range of stakeholders at the oblast level

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<sup>8</sup> Anti-corruption Action Centre (2013). “Who makes money on the HIV/AIDS and tuberculosis epidemics in Ukraine.”

3. Sensitization of the private sector to generate interest in framework contracting for better access to pharmaceuticals and improved public procurement in health care

Practical implementation of this strategic approach was translated into the Plan of Action with immediate, interim, and long-term goals to:

1. Develop framework contracting training curriculum and auxiliary materials
2. Design technical tools
3. Reach out to the major stakeholders on central and regional levels
4. Engage private sector and civil society organizations
5. Ensure the announcement of at least two tenders under framework contracting procedure

### **Stakeholders in the Framework Contracting Initiative**

The Senior Technical Advisor for Supply Chain articulated strategy, vision, and goals of the intervention. On a daily basis, he supervised and coordinated work carried out by other stakeholders and provided support to the regional authorities and health care facilities. The Senior Technical Advisor was also a co-author of the training materials, coordinated delivery of trainings, and assisted in the development of technical and auxiliary tools.

A consultant with expertise in Ukrainian procurement legislation was contracted. He focused on compiling the training curriculum, developed some of training materials and technical tools, and was responsible for the methodological counseling of the tendering committees functioning in the health facilities.

The Regional Coordinator acted as a point of contact for framework contracting in the respective oblast, serving as a liaison between oblast authorities, health administration, health care facilities, and the SIAPS Senior Technical Advisor.

Central authorities involved in the project included two ministries—MoH and MEDT. MoH is the regulator of oblast health administrations and health care facilities, whereas MEDT is the methodological lead in all aspects of the public procurement, including framework contracting.

Local authorities were represented by a wide range of local governance stakeholders, including the individuals from the oblast council commissions, oblast directorates of MoI, Financial Inspection, Antimonopoly Committee, Oblast Administration Economic Department, anticorruption bodies, and State Security Service, as well as the (Deputy) Oblast Governor and Attorney-in-Chief.

Oblast health administrations were the technical assistance recipient and the major governmental counterpart.

Health care facilities included hospitals and a municipality-owned pharmaceutical warehouse. These institutions were focal points of the intervention. Members of their tendering committees

actively participated in the trainings and learned how to use technical tools to make their framework contracting work more efficient and transparent.

Outreach to the private sector focused on international and local manufacturers and oblast-level distributors. Primarily, these were pharmaceutical companies, but, upon request of oblast authorities, suppliers of other commodities used in clinical practice were also invited to take part in the workshops. These companies were suppliers of disinfection agents, foods, gas, and other commodities vital for proper hospital functioning.

A special emphasis was placed on the outreach to the civil society organizations to inform them of framework contracting aspects critical for ensuring transparency and effective management of public funds.

## IMPROVING PROCUREMENT PRACTICES

### Educational Trainings on Framework Contracting

One month after the signing of the first Memorandum of Understanding and Cooperation, the first framework contracting training was held in the Poltava oblast. This was preceded by the creation of the corresponding training curriculum; development of all necessary materials, including technical instruments; and publication of a compilation of the relevant legislation.

The training curriculum encompassed three full days (32 academic hours) and included two sections with a total of 12 session modules, five hands-on cases, and practical work with the technical instruments. At least 45% of the training was estimated to be interactive, allowing participants to ask or answer questions, share their views, make contributions to discussions, and even preempt presenters' points.

Training session modules consisted of:

- Section I: International Pharmaceutical Procurement Standards and Recommendations – Preventing Corruption
  - Covered topics related to World Health Organization and World Bank recommendations, and general best practices for framework contracting.
- Section II: Framework Agreements in the Public Procurement System
  - Incorporated topics with a specific national context, such as Ukrainian regulatory framework for framework agreement procurement, general procuring entity in framework contract procurement, specific features of tendering documentation for framework agreement procurement, execution of framework agreement and conclusion of framework contracts, complaints in framework contracting, etc.

### Oblast of Poltava

The first framework contracting training was conducted November 10-12, 2014. Initially, the plan was to invite 10 members of tendering committees from the major oblast hospitals. Following the Health Administration's request, the number of participants was increased to 25 persons. In the end, the number of participants exceeded all expectations. Forty-four persons registered for the event on the first day. The training went well, with all trainees actively participating, asking questions, offering alternative solutions for the discussed problematic issues, and sharing their practical experience.

The Health Administration requested that a second framework contracting training be held in the smaller industrial town of Kremenchug. Despite the remote location, the training was as

successful as the first one, yielding a substantial increment in knowledge (please refer to Annex B for the learning curves for each training).

A third and final meeting was held July 23-24, 2015, in Poltava. The main purpose was to provide a forum in which representatives of the health care facilities in Poltava could share their experiences regarding tendering processes under framework agreement procedures; to encourage the representatives of the Base on Special Medical Procurement in Dnipropetrovsk in proceeding with framework agreement procedures; and to provide a forum for the two oblasts to interact and exchange information on challenges faced, as well as to provide them with valuable advice on how to practically implement the possibilities offered by the legislation. Thirty-one participants from 15 health care facilities of the Poltava oblast and 3 participants from the Base on Special Medical Procurement for Dnipropetrovsk attended this event.

### **Oblast of Dnepropetrovsk**

The oblast of Dnepropetrovsk had three framework contracting trainings. They took place January 27-29, 2015; February 11-13, 2015; and March 11-13, 2015. Training participants were from oblast and town health administrations, health care facilities, and a municipality-owned pharmaceutical warehouse. A total of 85 employees attended these educational events.

### **Stakeholder Meetings**

In each of the two participating oblasts' stakeholder meetings were organized to inform the public, in general, and relevant authorities, in particular, about framework contracting as one of the most efficient procurement techniques. Individuals from oblast councils and administrations, directorates of the Interior Ministry, Security Service, Financial Inspection, the regional office of the Antimonopoly Committee, and health administrations, as well as the Chief Attorney and chief physicians of the major hospitals were briefed about the framework contracting, the procedures for appointing general procuring entity, and the requirements for interactions between the entities and participating hospitals.

Oblast authorities were highly interested and spoke about broader implementation of framework contracting, not only in health care but in other sectors as well, such as education, social protection, etc.

### **Promotion of Vendor Interest in Framework Contracting**

Successful public tendering would not be possible without a sufficient number of suppliers being willing to bid. It was decided to inform the private sector on the procedures and requirements of framework contracting to encourage participants to submit their bids for the framework agreement to make it effective given the history of limited participation in public sector procurement. The ultimate goals of this intervention were to increase the proportion of the population with access to affordable medicines and to contribute to United Nations Millennium

goal No. 8, Target 8E: “In cooperation with pharmaceutical companies, provide access to affordable, essential drugs.”

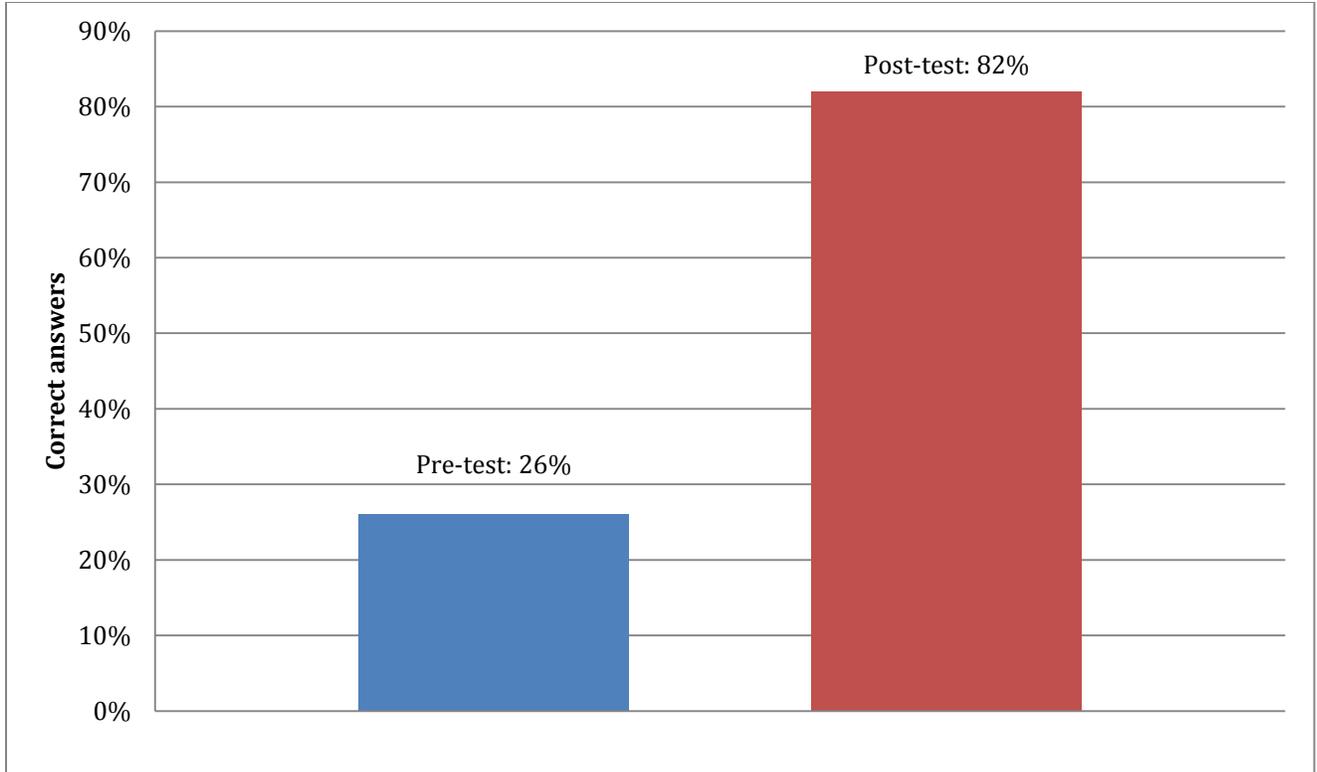
Two informational sessions were conducted in Dnepropetrovsk and Kiev on January 30, 2015, and March 2, 2015, respectively. Thirty-three participants from 23 manufacturing and distribution companies (and 3 law firms) attended these events.

### **Information Dissemination**

Educational trainings, informational seminars, and stakeholder meetings contributed to the achievement of one common goal—to inform professionals involved in various aspects of procurement about the advantages of framework agreements for the decentralized system of procurement existing at the oblast level. As a result, a total of 257 individuals participated in the events organized by SIAPS. The breakdown of participants is as follows:

- 145 Tendering Committee members from 44 health care facilities
- 65 authorities from 18 local government institutions, including commissions of Oblast Councils, directorates of Financial Inspection, the Antimonopoly Committee, MoI, Security Service, and health administrations, as well as the Attorney General
- 12 persons from the central government offices, including MoH, MEDT, and the Ukrainian Centre for Socially Dangerous Diseases
- 33 representatives from 23 private sector companies, including 5 manufacturers, 15 suppliers/distributors, and 3 law offices
- 2 participants from CSOs

Consolidated results of the educational trainings are represented in the graph below. Results of the individual trainings are provided in Annex B.



**Figure 1. Consolidated results for five framework contracting trainings (mean knowledge increment for the five trainings was 56%)**

### Impact on Policy Issues and Regulatory Framework

Although major interventions focused on the oblast level, a total of 12 officials from central governmental institutions attended the events organized by SIAPS. This facilitated the inter-agency dialogue between MoH and MEDT, helping the latter to better understand the specifics of pharmaceutical procurement. Communication with local authorities brought a greater understanding of the regional specifics to the central level, whereas vendor information events provided a common ground for both business and public institutions.

This culminated in adopting changes to MEDT Regulation No. 503, with the purpose of broadening the list of commodities eligible for procurement through framework contracts. This intervention was conducted in response to the Poltava Health Administration’s request to facilitate the creation of a more favorable regulatory framework for framework contracting.

On March 2, 2015, a major milestone was achieved, opening the way to pooled procurement through framework contracting in the oblast of Poltava. The Poltava Oblast Administration adopted Directive No. 69 to appoint Sklifosofskiy Oblast Clinical Hospital as a General Procurement Entity for up to 11 oblast hospitals. Soon after, on May 25, 2015, the Poltava Oblast Administration also adopted Directive No. 249, expanding the already established list of procurement entities by adding the Poltava regional clinical tuberculosis dispensary. This move made procurement under framework agreements even more attractive to potential suppliers due to the increased volume of goods to be procured.

## RESULTS

### Immediate

The immediate result for Poltava was the successful appointment of a General Procurement Entity (Sklifosofskiy), allowing for pooling of procurement across several facilities and, thus, increasing the interest of potential vendors. The volume of goods to be procured was attractive enough for suppliers to bid with confidence. While some other individual hospitals were successful in establishing their own framework contracts, two hospitals in Poltava initiated framework contract tenders independently; these were not successful, as vendors did not participate due to the small volume of goods. This is further evidence on why it is important to consolidate the volume of goods and in order to increase the likelihood of successful tender.

Another immediate result was that SIAPS helped increase the technical capacity of tender committee members on how to write tender documents within general tender procedure in order to receive the required number of bids. This included terminology such as “one medicine – one lot,” allowing smaller vendors, which cannot cover the whole list of goods offered for procurement, to bid on only one or a couple of lots; “market research before tender announcement,” informing and engaging vendors to participate, but not to rely only on published tender announcement; etc. These efforts will prove interesting to watch moving forward, to see how they help improve general tender processes in health care facilities beyond framework contracts.

### Interim

The interim results presented below demonstrate the effectiveness of the SIAPS holistic approach and its interventions. These results effectively illustrate how providing technical assistance to different stakeholders has helped them in achieving better results for their respective objectives in just half a year.

1. Oblast health facilities embraced framework contracting and have introduced these procurement techniques into their annual plans
2. Tendering committees and private sectors were trained
3. A favorable regulatory environment was created
4. Framework contracts were successfully established in both oblasts

### Long Term

The cost-effectiveness of framework contracts should only be compared after a few procurement cycles, as concluded framework contracts will be in force, at least, for 2 years. It is expected that,

even if the currency exchange rate changes significantly in the next year, the framework contracts won't be affected as widely as the regular tenders due to their capacity in establishing more stable business relationships.

The following framework contracts for procurement of medicines and health commodities were established in the Poltava oblast:

1. Poltava oblast remedial hospital – contract dated July 9, 2015, for a 3-year period for a sum of USD 134 786
2. Poltava oblast children's hospital – contract dated July 10, 2015, for a 2-year period for a sum of USD 4 376
3. Sklifosofskiy Oblast Clinical Hospital – two contracts: one contract dated October 29, 2015, for a 3-year period for a sum of USD 248 723; another contract dated October 29, 2015, for a 3-year period for a sum of USD 361 572

The following framework contract for procurement of medicines and health commodities was established in the Dnipropetrovsk oblast:

1. Base on Special Medical Procurement – contract dated November 2, 2015, for a 2-year period for a sum of USD 111 207

It is worth emphasizing that, in the future, the administration of these procurements will take far less time for health care facility staff and members of tender committees to carry out, and will make it almost impossible to block public funds in antimonopoly litigation due to the simplified procedure of tendering, which will require only obtaining price quotations. Finally, framework contracts also eliminate the risk of cancelling tenders on the grounds of an insufficient quantity of participants.

## CONCLUSION

The framework contracting activity has proven its value. The observed outcomes exceeded those expected both in number of trained staff as well as concluded framework contracts. The core advantages of this form of tendering were fully recognized as being applicable even on the regional level, where potential obstacles may have seemed more difficult to overcome due to local procurements peculiarities. Both the Poltava oblast and Dnipropetrovsk oblast authorities gave their total commitment and collaboration in the implementation, and demonstrated full-scale support during the whole process, as well as willingness to build a system more resilient to corruption.

As per decentralized procurement, the model of using a general procurement entity within the oblast demonstrated its full potential. This inexpensive intervention has shown many benefits, including a larger volume of goods, maximum number of suppliers, lowest prices, and less administration workload for personnel. The positive results of these general procurement entities in both pilot oblasts showcase a more efficient operating mechanism that may serve as an example for other oblasts.

The interest and engagement from health care facilities staff in receiving assistance from SIAPS in both framework agreements and general tender procedures was higher than expected. Interest was expressed in receiving further technical support, leading to the conclusion that there is room for further improvement. However, the existing resources did not allow for health care facilities to receive continued support for tendering purposes on a recurring basis in the future. Overall, a large number of health care facilities staff have been trained within the framework contracting activity, so it can be assumed that most facilities will have the capacity to perform basic steps to successfully carry out framework contracting for some time.

The experience gained in framework contracting in these two oblasts should be expanded to the central level, where they are facing similar problems with procurements for the National Programs. The potential gains at the central level are even greater, both in terms of technical instruments and human resources. MEDT, as a regulatory body in the implementation of framework contracts, is also receptive to the potential gains of framework contracting. Finally, if the draft of the law on electronic procurement finds support in the Supreme Rada of Ukraine, then the synergistic effect of framework contracting and electronic tendering in the procurement of medicines and health care commodities will be enhanced.

### Deliverables

- Technical instruments for framework contracting
- Training materials, practical cases, and trainer's guide
- Compilation of regulatory documents

## *Conclusion*

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- Amendments to MEDT Regulation 503 adopted, broadening the spectrum of commodities health care facilities can procure through framework contracts
- Oblast Administration Directive No. 69 (March 2, 2015), appointing a General Procurement Entity for the oblast of Poltava
- Oblast Administration Directive No. 249 (May 25, 2015), appointing a General Procurement Entity for the oblast of Poltava

## ANNEX A. TECHNICAL INSTRUMENTS

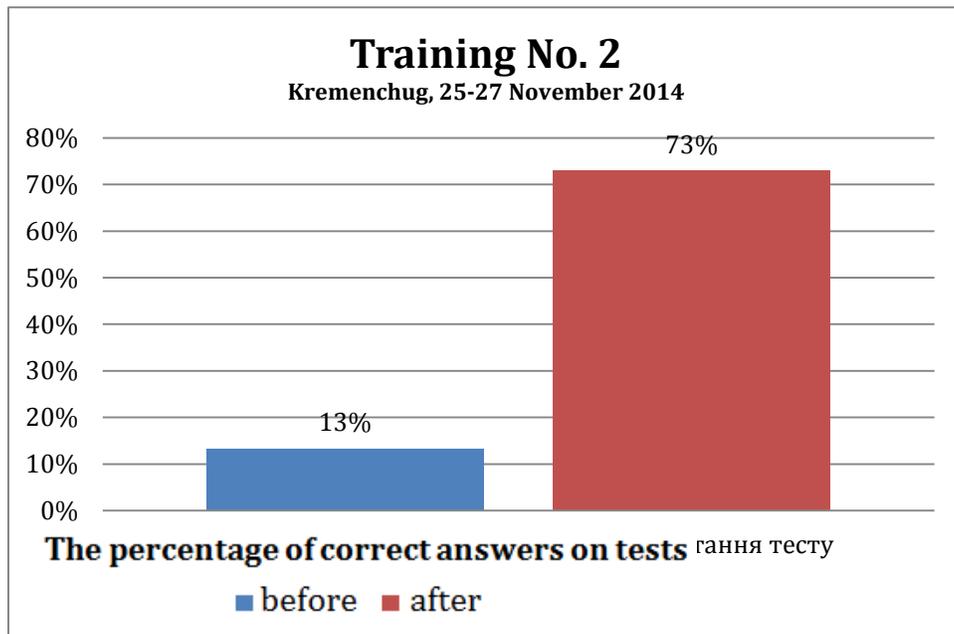
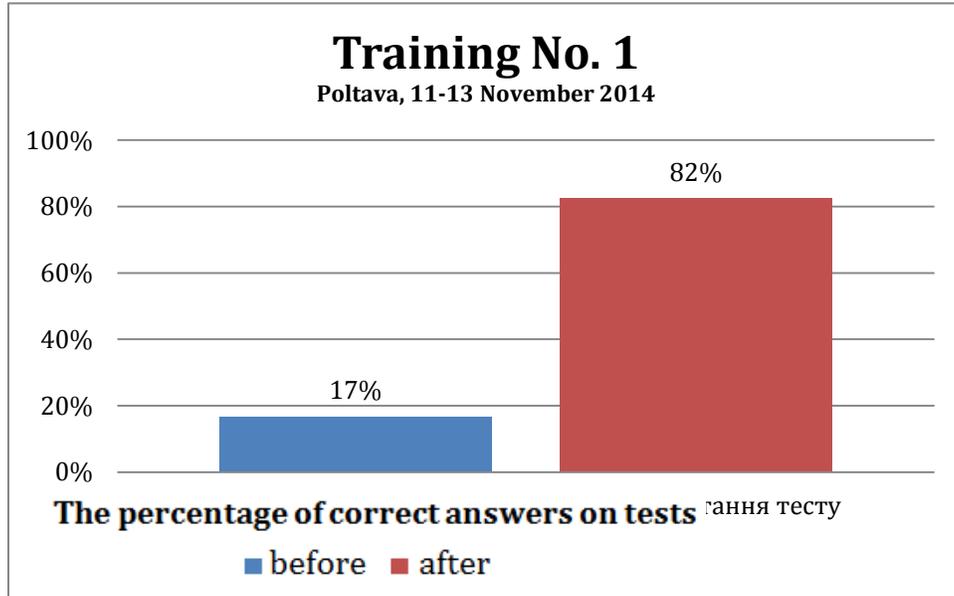
### 1. Procedure for framework agreement conclusion

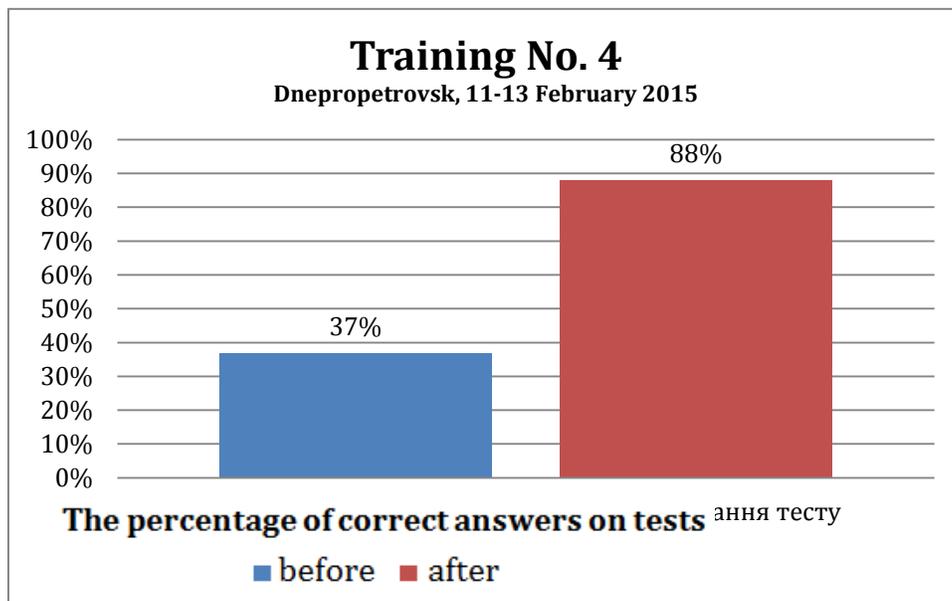
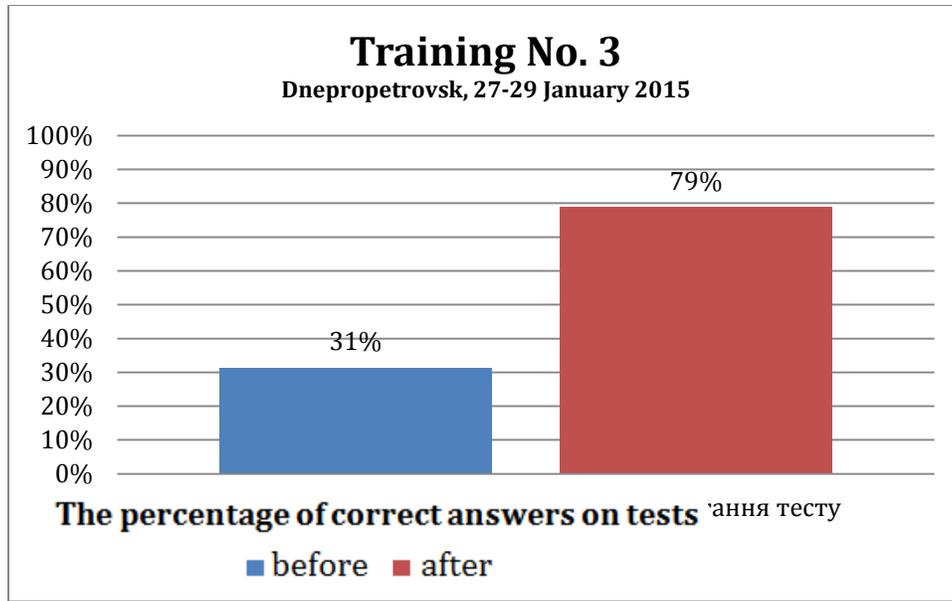
This poster-size table helps to map out phases and steps in the process of framework agreement conclusion.

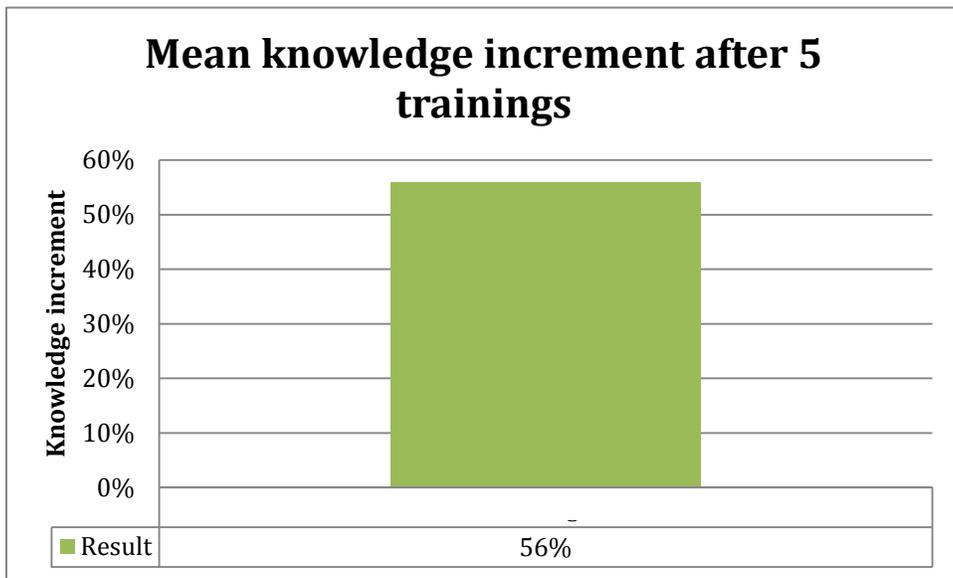
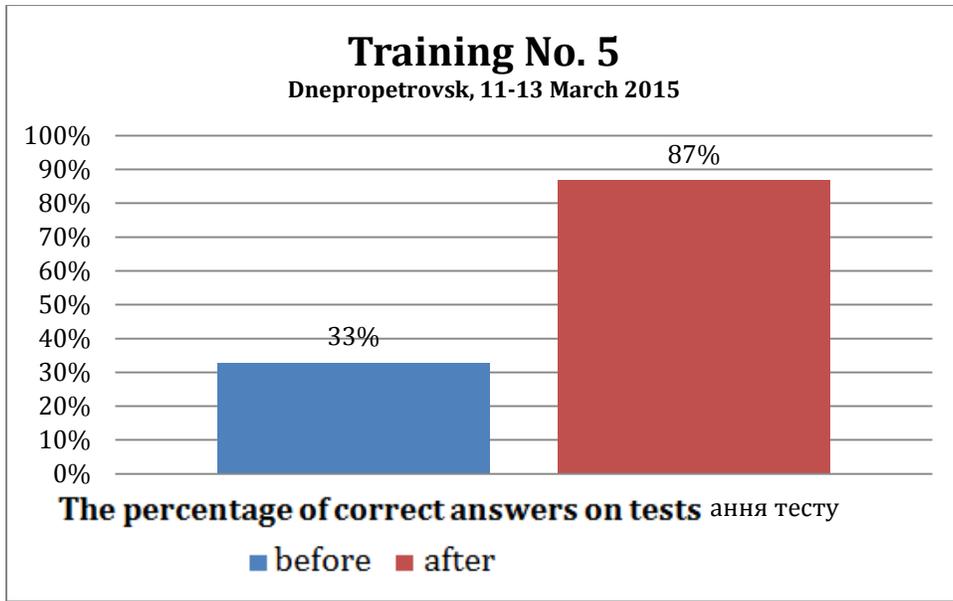
<b>УКЛАДЕННЯ РАМКОВОЇ УГОДИ</b>					
<b>Планування закупівлі</b>					
Наявність закупівлі за рамковою угодою у річному плані:	<input style="width: 100%;" type="text"/>				
Строк на який укладається угода (роки)	<input style="width: 100%;" type="text"/>				
Кількість учасників з якими буде укладено рамкову угоду	<input style="width: 100%;" type="text"/>				
Очікувана річна вартість (тис. грн.)	<input style="width: 100%;" type="text"/>				
Предмет закупівлі	<input style="width: 100%; height: 20px;" type="text"/>				
Процедура закупівлі	<input style="width: 100%; height: 20px;" type="text"/>				
Відповідальна особа:	<input style="width: 100%; height: 20px;" type="text"/>				
<b>Оголошення закупівлі</b>					
	Дата оприлюднення (план)	Наявність проекту	Дата фактичного оприлюднення		
Документація конкурсних торгів	<input style="width: 100%; height: 20px;" type="text"/>	<input style="width: 100%; height: 20px;" type="text"/>	<input style="width: 100%; height: 20px;" type="text"/>		
Оголошення про закупівлю	<input style="width: 100%; height: 20px;" type="text"/>	<input style="width: 100%; height: 20px;" type="text"/>	<input style="width: 100%; height: 20px;" type="text"/>		
Оголошення англійською мовою <small>(при перевищенні порогового значення)</small>	<input style="width: 100%; height: 20px;" type="text"/>	<input style="width: 100%; height: 20px;" type="text"/>	<input style="width: 100%; height: 20px;" type="text"/>		
<b>Розкриття пропозицій</b>					
	Дата складання	Кількість поданих			
Реєстр отриманих пропозицій	<input style="width: 100%; height: 20px;" type="text"/>	<input style="width: 100%; height: 20px;" type="text"/>			
	Дата складання (план)	Наявність проекту	Дата складання (факт)	Дата фактичного оприлюднення	
Протокол розкриття	<input style="width: 100%; height: 20px;" type="text"/>				
<b>Оцінка пропозицій і акцепт</b>					
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Протокол оцінки	<input style="width: 100%; height: 20px;" type="text"/>	<input style="width: 100%; height: 20px;" type="text"/>	<input style="width: 100%; height: 20px;" type="text"/>		
	Дата складання (план)	Наявність проекту	Дата складання (факт)	Дата фактичного оприлюднення	
Акцепт пропозицій	<input style="width: 100%; height: 20px;" type="text"/>				
<b>Відомості про рамкову угоду</b>					
Дата укладення рамкової угоди	<input style="width: 100%; height: 20px;" type="text"/>	Номер угоди	<input style="width: 100%; height: 20px;" type="text"/>		
Строк на який укладено угоду (роки)	<input style="width: 100%; height: 20px;" type="text"/>				
Кількість учасників з якими укладено рамкову угоду	<input style="width: 100%; height: 20px;" type="text"/>				
	Дата складання (план)	Наявність проекту	Дата складання (факт)	Дата фактичного оприлюднення	
Оголошення з відомостями про рамкову угоду	<input style="width: 100%; height: 20px;" type="text"/>				



## ANNEX B. FRAMEWORK CONTRACTING TRAINING RESULTS







**ANNEX C. DIRECTIVE ON APPOINTING SKLIFOSOFSKIY OBLAST CLINICAL HOSPITAL TO ACT AS A GENERAL PROCUREMENT ENTITY IN THE OBLAST OF POLTAVA**



**POLTAVA OBLAST ADMINISTRATION**

**DIRECTIVE  
OF OBLAST ADMINISTRATION HEAD**

02 March 2015

No. 69

*Subject: appointment of Sklifosofskiy Poltava Oblast Clinical Hospital to be General Procurement Entity for framework agreement procurement*

Pursuant to articles 6, 13, and 18 of the Ukraine Law On Local Administrations,

In compliance with articles 1 and 13 of the Ukraine Law On Public Procurement,

In reliance on Cabinet of Ministers' Resolution No. 602 dated 04 July 2012 '*On the approval of the procedure for appointing a General Procurement Entity and interaction between procurement entities and the General Procurement Entity within framework agreements*',

Taking into consideration Ministry of Economic Development and Trade's Order No. 503 dated 24 April 2012 '*On the approval of the List of commodities and services eligible for procurement through framework agreements*',

Pursuing to organise procurement process in the healthcare facilities using the oblast budget funds,

Considering letters of application submitted by the healthcare facilities from the oblast of Poltava and the solicitation of the Poltava Oblast Health Administration *<it is hereby decreed>*:

1. to appoint Sklifosofskiy Poltava Oblast Clinical Hospital to be a General Procurement Entity for administration of framework agreement procurement on behalf of procurement entities for the period of 3 years and to approve List of commodities and procurement entities for the framework procurement (attached).
2. While concluding a framework agreement Sklifosofskiy Poltava Oblast Clinical Hospital must ensure compliance with the enforced legislation.

Head

*<round seal of the Poltava Oblast Administration>*

V. Holovko



**ПОЛТАВСЬКА ОБЛАСНА ДЕРЖАВНА АДМІНІСТРАЦІЯ**

**РОЗПОРЯДЖЕННЯ  
ГОЛОВИ ОБЛАСНОЇ ДЕРЖАВНОЇ АДМІНІСТРАЦІЇ**

02.03.2015

69

Про визначення Полтавської обласної клінічної лікарні ім. М.В. Скліфосовського генеральним замовником для організації закупівлі за рамковими угодами

Відповідно до статей 6, 13 та 18 Закону України „Про місцеві державні адміністрації”, статей 1 та 13 Закону України „Про здійснення державних закупівель”, постанови Кабінету Міністрів України від 04.07.2012 р. № 602 „Про затвердження Порядку визначення генеральних замовників та взаємодії замовників з генеральним замовником за рамковими угодами”, наказу Міністерства економічного розвитку та торгівлі України від 24.04.2012 р. № 503 „Про затвердження переліку товарів і послуг, які можуть закуповуватися за рамковими угодами”, з метою організації проведення закупівельних процедур за кошти обласного бюджету закладами охорони здоров'я, враховуючи звернення закладів охорони здоров'я Полтавської області та подання Департаменту охорони здоров'я Полтавської обласної державної адміністрації:

1. Визначити Полтавську обласну клінічну лікарню ім. М.В. Скліфосовського генеральним замовником для організації закупівлі за рамковими угодами товарів в інтересах замовників терміном на 3 роки та затвердити Перелік товарів та замовників для закупівлі за рамковими угодами (додається).

2. Полтавській обласній клінічній лікарні ім. М.В. Скліфосовського забезпечити дотримання вимог чинного законодавства при укладанні рамкової угоди.

Голова  
обласної державної  
адміністрації



В. ГОЛОВКО