

EAG Working Group on Typologies
(WGTYP)

REPORT

On Results of Typology Research:

**Preventing Offences Related to Placement of Orders for Supply of
Goods, Work and Services for State and Municipal Needs**

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Introduction

Pursuant to the decision of the 13th Plenary Meeting of the EAG member-states held on December 14-15, 2010 the Federal Financial Monitoring Service of the Russian Federation steered the typology exercise: Prevention of Offences Related to Placement of Orders for Supply of Goods, Work and Services for State and Municipal Needs.

The topic of this typology exercise was proposed by the representative of Rosfinmonitoring at the meeting of the Working Group on Typologies (hereinafter WGTyp) and was endorsed by other parties participated in the meeting.

Crimes related to public procurement are featured by exceptional threat posed to the society since they result not only in theft of the budget funds but also are typically characterized by active involvement of civil servants at various levels, i.e. officials vested with the powers to protect the state and public interests. Various corruption schemes (bribes, kickbacks) associated with such crimes first and foremost undermine the credibility of the government authorities, intensify public frustration and have a dramatically negative impact on the social and economic situation in a country. Besides that, they pose the inherent threats to creation of favorable investment environment and to the international reputation of the country in general by increasing the volume of funds circulating in the “shadow” economy.

In this context, all developed countries pay exceptional attention to combating crimes that involve theft of budget funds and also to improvement of their national public procurement legislation. Thereupon, it should be noted that the financial intelligence units, some of which have unique capabilities, can and shall become an active element of the system of combating offences in the public procurement sphere.

The goal of this research is to explore potential involvement of the financial intelligence units in combating offences (crimes) related to awarding and implementation of public contracts.

The main areas covered in the course of the performed work can be defined as follows:

- Identify vulnerabilities in the public procurement sphere as they pertain to risks associated with theft of budget funds;

- Identify the most widespread types of offences committed in the public procurement sphere as predicate offences;
- Identify typologies of suspicious activities related to public procurement (methods, instruments, mechanisms);
- Identify public contract suspicious criteria;
- Assess possible methods of detection of suspicious financial transactions related to payments due under public contracts;
- Develop recommendations for enhancing effectiveness of FIUs involvement in deterring public procurement-related crimes.

In general, this research is aimed at achieving two primary objectives. The first objective is to improve general understanding by the FIU personnel of conditions and processes that emerge in course of theft of government (budget) funds allocated for public procurements. The second objective is to develop recommendations and additional measures required for effective detection and prevention of crimes in this sphere as well as crimes associated with laundering of stolen budget funds (proceeds of theft of government funds).

In course of the research the questionnaire drafted by Fosfinmonitoring was sent to all EAG member-states and EAG observers.

As of October 1, 2011, the financial intelligence units of the following countries took part in the survey:

The Republic of Kazakhstan (EAG member);
The Republic of Tajikistan (EAG member);
The Republic of Uzbekistan (EAG member);
The Russian Federation (EAG member);
The Republic of Armenia (EAG member);
The United States of America (EAG observer);
The Republic of Turkey (EAG observer);
The Italian Republic (EAG observer).

The information and materials supplied by the parties participated in the survey vary in terms of completeness. The most detailed answers to the questionnaire with the description and analysis of offences related to public procurement were provided by the Republic of Kazakhstan and the Republic of Tajikistan. Besides that, the detailed information on the research topic provided by

Armenia, USA, Italy, Turkey, Uzbekistan and Russia was also included in this Report.

The received materials allowed for obtaining important information that gives answers to the questions raised in the survey and also for comparing the current situation with deterrence of public procurement-related crimes in various countries.

1. Public Procurement Concept. International and National Legislation

The public procurement systems in place in various countries have many common features, but at the same time they differ due to the specificities of the national legislation that regulates relationships in this area.

The **USA** has gained the richest experience in the public procurement sphere. The first US law that regulated the Federal Government Procurement System was adopted in 1792. It vested the powers related to public procurement in the Treasury Department and Department of Defense. Today, the federal acquisition system in the United States of America is generally decentralized. The Federal Acquisition Regulations and the Defense Federal Acquisition Regulations – Supplement form the basis of the US Public Procurement System.

In 1994, the US legislation was deeply revised since it insufficiently reflected the increased role of procurement of products for the national needs. Such review and revision resulted in the adoption of the Federal Acquisition Streamlining Act which entailed changes in the information policy as well as in the generation and use of information resources in the system. The federal acquisition procedures were also subject to review (by 1994, there were 889 general laws and regulations governing the procurement procedures). Today, the federal contracting officers have more independence in selecting methods and forms of procurement for the national needs. The Act significantly simplified the contracting procedures for small purchases and supported electronic commerce (electronic technologies for business activities including e-mail, Internet, electronic bulletin boards, purchase cards, electronic funds transfer, electronic data interchange, etc.).

In the United States of America, the Federal Procurement Data System is the consolidated federal acquisition information source.

All agencies have to supply the required information to the Federal Procurement Data System. The federal agencies use the standard document templates and uniform data formats for providing information on the concluded contracts. In addition to the established list, the agencies also must store electronic data identifying sub-contracts signed under the contracts amounting to and/or exceeding 5,000,000 US dollars.

The **EU member states** predominantly use two procurement models: the decentralized model and the centralized one. Under the decentralized model, each entity (Department, Ministry, etc) makes necessary purchases independently, while the centralized model envisages the establishment of some kind of a Procurement Center that accumulates purchase orders supplied by the entities. Under the exceptional centralized model a special agency in charge of all public procurements is set up. Each model has obvious advantages and disadvantages. The decentralized model is more flexible, but at the same time is less cost-efficient. On the other hand, the centralized model ensures cheaper prices due to large-scale bulk purchases, but is less mobile and does not necessarily address the nuances and details of orders placed for procurement of required goods and services. It appears that the most effective and efficient in the European Union are the hybrid models where the general guidance and control over the procurement activity (development of the regulatory framework, planning, monitoring and coordination) is exercised by the Ministry of Finance or Economy, in particular through the budgeting process, while specific purchases are made by special procurement entities (departments). It is this type of structure that is in place in the United Kingdom where in addition to the Treasury that acts as the main coordinating agency there are also special departmental procurement services such as the National Health Service Supplies. As in most developed nations, the public procurement system in the EU is based on the competitive bidding procedures. The procurement regulations mainly based on competitive bidding procedures are also recommended by the United Nations Organization and the World Trade Organization for their respective members. The United Nations Commission on International Trade Law (UNCITRAL) even proposed the Model Law on Procurement of Goods, Construction and Services as the model and possible basis for the national public procurement legislation (adopted by the 27th session of UNCITRAL on May 31- June 17, 1994 in New York).

The legislation based or largely relying on the UNCITRAL Model Law on Procurement of Goods, Construction and Services has been enacted in many countries all over the world including Azerbaijan, Albania, Armenia, Afghanistan, Bangladesh, Guyana, Gambia, Ghana, Georgia, Zambia, Kazakhstan, Kenya, Kyrgyzstan, Mauritius, Madagascar, Malawi, Mongolia, Nepal, Nigeria, the United

Republic of Tanzania, Poland, the Republic of Moldova, Rwanda, Romania, Slovakia, Uganda, Uzbekistan, Croatia and Estonia.

The national legislation of all countries that took part in the survey contains the legal definition of the “public procurement”.

In the United States of America, 48 CFR 3.104-1 – 11 defines “Federal Agency Procurement” as the acquisition (by using competitive procedures and awarding a contract) of goods or services (including construction) from non-Federal sources by a Federal agency using appropriated funds.

In the Republic of Armenia, Article 3 of the Armenian Law on Procurement defines “Procurement” as purchase of tangible and intangible assets – all types of goods, works and services compensated by a customer.

In the Republic of Kazakhstan, RK Law No.303 dated July 21, 2007 On Public Procurement defines “Public Procurement” as purchase (on payment basis) by customers of goods, work and services needed for functioning and exercising the government functions or conducting the statutory activity of a customer performed in a manner established by this Law and the civil legislation of the Republic of Kazakhstan, except for the services purchased from natural persons under labor contracts or from legal entities other than business entities, under paid service agreements, as part of execution of tasks assigned by the State and as part of contributions made, inter alia, into the authorized capital on newly established legal entities.

In the Republic of Tajikistan, Article 3 of the RT Law on Public Procurement of Goods, Work and Services defines “Public Procurement” as purchase by a procuring entity of goods, works and services through any of methods established by this Law and financed fully or partially through public (budget) funds.

In the Republic of Uzbekistan, Resolution No.136 adopted by the RU Cabinet of Ministers on 08.04.2000 approved the Procedure of Supplying Basic Food Products to Social Institutions, Special Consumers and State Reserve which defines the “Public Procurement” as purchase of goods fully or partially financed through public (government) funds.

In the Republic of Turkey, Article 4 (Definitions) of Turkish Public Procurement Law No.4734 states that “Procurement” means the procedure which

involves the award of a contract relating to purchase of goods, services or works, to one tenderer selected in accordance with the procedures and conditions laid down in this Law, and which is completed with signing of a contract following the approval by the contracting officer.

In the Russian Federation, Federal Law No.94-FZ dated 21.07.2005 On Placement of Orders to Supply Goods, Carry Out Work and Render Services for Meeting State and Municipal Needs stipulates that the “State Needs” mean the Russian Federation's needs for commodities, work and services required for exercising the functions and powers of the Russian Federation (in particular, for implementing the federal target programs), for fulfilling the international obligations of the Russian Federation, in particular for implementing the international target programs with involvement of the Russian Federation, or the needs of the Constituent Regions of the Russian Federation in commodities, work and services required for exercising the functions of the Constituent Regions of the Russian Federation, in particular for implementing the regional target programs, using the federal budget funds, or the budget funds of the Constituent Regions of the Russian Federation, or funds from off-budget financing sources.

Thus, the main distinctive feature of the definition of public procurement in the legislation of all countries that took part in the survey is purchase of goods, services or work **using public (budget) funds.**

2. Public Procurement System, Regulation in Public Procurement Sphere in Countries Participated in Survey

It should be noted that each country that took part in the survey has the independent government agencies or entities within the ministries or departments that perform monitoring or supervision in the public procurement sphere.

Shown below are the examples taken from the answers provided by the surveyed countries:

Armenia	Ministry of Finance of the Republic of Armenia
Tajikistan	Agency for Public Procurement of Goods, Work and Services under the Government of the Republic of Tajikistan
Kazakhstan	Accounts Committee for Control over Execution of the Republican Budget; Financial Monitoring Committee of the Ministry of Finance of the Republic of Kazakhstan; Audit Committees of Maslikhats (the representative branches of sub-national entities)
Uzbekistan	The Government Committee for Public Procurement under the Cabinet of Ministers of the Republic of Uzbekistan; the Treasury of the Ministry of Finance of the Republic of Uzbekistan
Russia	Federal Antimonopoly Service; Federal Service for Defense Contracts

In terms of public procurement methods and procedures,

Used in Armenia are:

- Open procedure;
- Competitive dialogue;
- Restricted procedure;
- Negotiations.

Used in Kazakhstan are:

- Tender (may be held as a two-stage procedure);
- Request for quotation (RFQ);

- Single-source procurement;
- Organized electronic trade;
- Procurement through open commodity markets.

Used in Tajikistan are:

- Tenders with unlimited participation;
- Tenders with limited participation;
- “Short-list” method (specific tenders with limited participation for procurement of consultative services);
- Request for quotation;
- Single-source procurement;
- Electronic procurement.

Used in Russia are:

- Open tender;
- Request for quotation (RFQ);
- Open auction;
- Call for offer on commodity exchange;
- Single-source procurement from a single supplier (contractor) or with placement of a specific procurement order based of a party’s certificate.

3. Offences Committed in Public Procurement Sphere. Suspicious Indicators of Public Contracts

3.1. Types of Offences in Public Procurement Sphere

The countries that took part in the survey indicated the following main offences (crimes) committed in the public procurement sphere:

Armenia:

- Breach of the Armenian Law on Procurement;
- State procurement budget overrun;
- Procurement of goods from one legal person (single-source procurement) without holding a tender.

Kazakhstan:

- Unjustified selection of public procurement method;
- Illegitimate composition of tender committee;
- Participation of affiliated persons in one tender;
- Illegal rejection of bids, unlawful access to tenders, selection of a winner whose bid shall be rejected;
- Breach of contracting procedures, improper performance of contracts, payment for non-performed work.

Tajikistan:

- Making purchases without observance of the established formal procedures;
- Reduction of timelines of tenders with unlimited participation;
- Split of quarterly amounts of funds for reducing a procurement amount below the minimum procurement threshold and hence making purchases in circumvention of the established procedures;
- Non-release or untimely release (publication) of annual procurement plans and procurement reports.

In **Russia**, the overwhelming majority of violations of the public procurement legislation can be divided into two large groups:

- Deliberate provision of advantages in one form or another to the “chosen/favorite” business entities;
- Non-performance of contracts in full scope, or performance of work in breach of the technical specifications.

United States of America:

- Tender fraud;
- Previous concert;
- Bribery.

Thus, in general one can state that corruption and crimes committed by public officials are the most widespread types of public procurement-related offences. This conclusion is also proved by the available statistics.

For example, in 2008-2010 detected in Kazakhstan were 1,157 corruption offences and crimes committed by public officials in the public procurement sphere, of which 265 (corruption) offences were revealed in 2008, 423 offences (303 corruption cases) were detected in 2009, and 469 offences (343 corruption offences) were recorded in 2010.

Statistics demonstrate the trend towards the increase in number of corruption offences related to public procurement. On one hand, it shows the enhanced effectiveness of the undertaken measures (*higher percent of corruption offences is detected*), but, on the other hand, it indicates that the crime rate in this sphere remains high.

On average, in three recent years (2008-2010) corruption offences related to public procurement accounted for over 20% (911) of a total number of the detected corruption crimes (4,467). During the said period of time, 573 criminal cases were forwarded to the courts and 196 persons were convicted.

In 2010, a total of 26,000 public procurement-related offences were detected in Russia, while in 2009 just 9,500 crimes were revealed in this sphere. In 2010, forwarded to the courts were 8,600 corruption-related cases instituted against over 10,000 persons. The courts passed 8,000 guilty verdicts and convicted 720 public and municipal officials.

The following sectors of economy are most vulnerable and exposed to risks associated with public procurement-related crimes:

- Construction Industry;
- Public Health Sector;
- IT Industry;
- Education Sector.

3.2. Combating Public Procurement-Related Offences

According to the information provided by the financial intelligence unit of the

Republic of Kazakhstan the following methods are used for combating public procurement-related offences:

- Using the suspicious criteria;
- Identifying persons targeted in the previous investigations carried out by the FIU and the law enforcement agencies;
- Using various databases.

However, the FIU does not perform targeted monitoring of public contracts for identifying suspicious indicators and detecting possible offences.

In the Republic of Tajikistan, in order to prevent potential theft of funds the members of a tender committee may (but are not obliged) require to secure a submitted bid (up to 3 percent of a bid price) and performance of obligations under a contract (up to 10 percent of a contract price) with a bank or other type of guarantee. Since such guarantee will certainly not cover the total amount of possible losses, in case of major purchases or any suspicions the tender committee may require payment upon delivery.

In the Russian Federation, the Federal Antimonopoly Service applies almost the same measures for combating public procurement-related offences as those used in Kazakhstan. At the same time, it should be noted that detection of offences in this sphere is one of the top priorities of Rosfinmonitoring. To enhance the effectiveness, the work in this sphere is performed with the application of a system approach. Information pertaining to the concluded public contracts is integrated into the information system. The respective authorities conduct, at their own initiative and at requests of the law enforcement agencies, audits of suspicious contracts and parties thereto, including both customers and contractors.

It should be noted that in general combating public procurement-related offences is not a separate line of work of all financial intelligence units, and they lack special instruments and methods for detecting such offences. The measures in this sphere are undertaken as part of the general efforts to combat laundering of criminal proceeds including those resulted from public procurement crimes. Besides that, the financial intelligence units typically get involved in this work only in the process of interaction with the law enforcement and oversight agencies.

Nevertheless, being aware of importance of and need to combat public procurement-related offences all countries that took part in the survey identified a

number of indicators of suspicious public contracts and mala fide parties to procurement procedures.

3.3. Indicators of Suspicious Activities in Public Procurement Sphere

Public procurement is, to a large extent, exposed to various offences risks. Given that the public procurement procedure is not a single-stepped process and takes some time, one can identify the following stages that are most frequently exposed to the risks of offences:

- Order Placement and Contracting Stage;
- Contract Performance Stage.

Presented in Table below are characteristics of each of the said stages of the public procurement procedure as they pertain to possible breaches.

Stage	Procedure	Breach
Order Placement and Contracting	Development of Tender Documentation	1. Tender documentation contains requirements for the procurement item that can be met by only one supplier.
	Publication of Procurement Notice	1. Splitting of the total amount of a contract and making purchase with the use of simplified procedure. 2. Procurement notice contains various illegible characters.
	Preparation of Bids by Tenderers	1. Affiliated suppliers take part in one tender. 2. Bids with dumping prices are submitted. 3. Tenderers enter into previous concert with regard to posted contract price.
	Evaluation of Submitted Bids	1. Tender committee unreasonably rejects submitted bids. 2. Unlawful access to tender is granted. 3. Supplier whose bid should be rejected is selected the tender winner.
Contract Performance	Contract Administration	1. Unreasonable signing of additional agreement to a public contract. Price of such agreement may exceed the cost of the main contract.

	Acceptance of Procured Item	1. Payment for non-performed work. 2. Breach of the work performance cycle. 3. Use of materials that do not conform to the standards set for a given type of work.
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Analysis of the patterns of the committed crimes and examination of tender documents provided by the customers that entered into collusion with mala fide suppliers reveals the following distinctive features of their behavior:

- A bid price is significantly higher than prices offered in previous bids submitted by the same companies or significantly exceeds the preliminary estimated cost;

- Number of tenderes submitting bids is less than usual;

- Two or more affiliated companies take part in a tender;

- During certain period of time, the same bidder wins tenders called by the same customer;

- There is a significant price difference between the winning bid and all other submitted bids;

- There is scheme under which bids with low offered prices are repeatedly submitted on a regular basis. For example, the same company always wins tenders for providing a certain type of service in a particular region or there is an arrangement by several bidders to win tenders on a rotation basis;

- It is clear that prices offered by a company in some bids significantly exceed the prices offered in other bids submitted by the same company without any logical reason behind such price difference;

- Two or more bidders have a joint venture even though at least one of them could submit a separate bid to independently perform the work under a contract;

- A successful bidder repeatedly enters into sub-contracts for performing work with its competitors that have offered higher prices for performing the work under the same projects;

- The way the bids are prepared (*e.g. the same calculation errors*) and submitted (*e.g. use of the same templates or form sheets*) is inconsistent with the

established standards, which gives grounds to assume that competing bidders have planned, copied or discussed each other's competitive offers or bids;

- Companies that transport their products to the customer over short distances charge the same price as those companies that deliver goods over long distances. This may serve as an indicator of price fixing, since otherwise some vendors would probably charge higher price for a particular item to compensate additional transportation costs.

4. Involvement of Financial Intelligence Units in Combating Public Procurement-Related Offences

As mentioned above, most of the financial intelligence units, that took part in the survey, are currently not engaged in the independent systematic work to combat public procurement-related offences. At the same time, the development of the information component of the national public procurement systems allows the FIUs to take active part in these efforts not only at the stage of investigation of the implications of committed crimes but also at the earlier stages, i.e. at the crime preparation stage. The value of such approach is that it allows for preventing offences and, hence, makes it possible to prevent potential losses that the state budget would otherwise suffer as a result of commission of such offences.

Use of the full range of the available information resources enables the financial intelligence units to most efficiently arrange monitoring of signed public contracts, perform verification of the parties participating in the procedures, detect/identify suspicious deals and make use of the obtained information through the law enforcement agencies.

Listed below are the information resources that could be used for this purpose:

A) National web portals for displaying information on public procurements. Availability of such portal in the national system means implementation of the principle of publicity in the public sector procurement. The main distinctive features of this information resource include its public accessibility via the Internet, the developed retrieval system and publication of full information on all stages of the public contracting process.

For example, since January 1, 2011 operating in the Russian Federation is the Unified Public Procurement Portal located at: <http://www.zakupki.gov.ru>.

This information resource contains the following main documents and information:

- Notices on procurement (on cancellation of procurement) with indication of procurement items, initial (starting) prices and customers;
- Tender documentation which includes all procurement terms and conditions, bid evaluation procedure and draft public contracts;
- Protocols of decisions passed by tender committees regarding the permit to take part in procurement, evaluation of submitted bids and selection of winners. In particular, these documents specify the grounds for denying the permit to take part in procurement and contain information on members of the tender committee that passed the decisions, their personal evaluation of submitted bids and results of voting during the decision-making process.

B) National legal entities registration databases.

C) Suspicious transactions (deals) databases.

D) Databases containing information on goods crossing the customs border.

E) Web sites of companies that are parties to public contracts.

F) Other information resources.

Utilization of the above-listed information resources in aggregate allows for revealing affiliation of the customer's officers with the contractors as well as for identifying fly-by-night companies and front (straw) parties that take part in tenders. Besides that, taking into account high (according to all FIU) corruption rate in this sphere the use of the aforementioned resources also allows for detecting bribery of public officials who are in charge of carrying out tender procedures and selecting the winners.

Summarized in Table below are some indicators of public procurement-related offences that can be detected by the financial intelligence units with the use of the aforementioned information resources and financial transactions data. In some cases monitoring of certain business and financial transactions that correspond to formal typologies of suspicious public procurement activities can be computerized.

#	Indicators	Information Resources	Recommendations on Computerized Retrieval of Offence Indicators
1.	Wide range of purchased goods are included in one procurement lot	Web sites used for publication of procurement notices	For example, various sophisticated equipment of various complexity and intended for various purposes as well as furniture and expendable materials are included in one procurement lot. Retrieval should be performed with the use of thesaurus.
2.	Tender documentation includes technical requirements that are met by a specific type of product manufactured by just one company, while similar products produced by other manufacturers are available in the market	Web sites used for publication of procurement notices	For example, technical requirements for equipment to be procured may include characteristics that are met only by a specific type of equipment carrying a well-known brand. Technical characteristics of famous brands should be compared with the technical requirements set forth in a contract.
3.	Excessive contract price	Data from Public Contracts Register	Contract price should be compared with the similar procurements by other customers
4.	Unusually short period of contract performance	Data from Public Contracts Register	Competition may be restricted by providing classified information on procurement terms and conditions to one of the potential contractors. It is necessary to compare periods of performance of similar contracts.
5.	A customer procures large volume of goods, work and services from a single supplier	Data from Public Contracts Register	Such situation may be caused by the following reasons: - discriminatory requirements that restrict competition are unreasonably included in tender documentation; - Customer breaches the bid review and evaluation procedures in favor of one of the bidders; - Potential contractors have entered into a market-sharing

#	Indicators	Information Resources	Recommendations on Computerized Retrieval of Offence Indicators
			collusion. It is necessary to compare customers in terms of single-source procurement methods they use.
6.	A contractor bears the marks of shell-company	Data from Public Contracts Register; STR Databases; State Register of Legal Entities; Tax Returns, etc.	It is necessary to verify if suppliers meet the shell-company indicators using all available information resources.
7.	Contractor's account activity indicates that it is used as the transit bank account. A contractor invests large amounts of funds into "shadow" financial services schemes. A contractor withdraws large amounts of cash from account, which is inconsistent with his core business activity. A contractor transfers large amounts of funds off-shore, which is inconsistent with his core business activity.	Data from Public Contracts Register; STR Databases	It is necessary to identify all contractors and use the STR database to check whether their business and financial activities meet the specified indicators.
8.	The core business activity of a contractor is inconsistent with the subject and scope of a public contract	Data from Public Contracts Register; STR Databases; State Register of Legal Entities	It is necessary to compare business activity of a contractor with the subject and scope of a public contract.
9.	A contractor is incorporated shortly before the tender procedure (up to 3 months). A contractor is liquidated shortly (up to several months) after performance of a contract	Data from Public Contracts Register; State Register of Legal Entities	It is necessary to identify contractors and compare contract signing dates with dates of incorporation (liquidation) of contractors.
10.	Contractor's annual revenue from sales of goods (performance of work, provision of services) is comparable with	Data from Public Contracts Register; Public Contracts Register;	It is necessary to identify contractors, establish amount of contractor's annual revenue from sales of goods (performance of

#	Indicators	Information Resources	Recommendations on Computerized Retrieval of Offence Indicators
	the total price of public contracts for the same period in which he took part as the contractor (unless he has monopoly in the market)	Annual Tax Returns	work, provision of services) and compare the revenue with the total price of contracts signed during a year.
11.	A contractor is affiliated in some way or another with a customer	All available information resources	It is necessary to identify all top managers of a customer, identify chief executive officers, managers and founders of a contractor and check all identified persons in terms of their possible affiliation.
12.	The same contractor or group of affiliated contractors holds dominant position in total scope of public contracts signed by a customer (in a given segment) for a long (one year or more) period of time (unless purchases are made in the monopolized markets).	Data from Public Contracts Register; State Register of Legal Entities	It is necessary to look for a common founder, manager or relative in a group of affiliated contractors.

Presented below are the examples of specific typologies of financial schemes used for gaining corruption proceeds in the public procurement sphere.

Example 1 *Typology Involving the Use of Patents for Gaining Corruption Proceeds*

A chief executive officer of a government-owned company uses the results of the R&D conducted by his subordinates or by the personnel of his company's subsidiaries to register an invention, useful model or industrial prototype patent in his own name.

In parallel, this chief executive officer arranges for the development of the public procurement plans of the company that involve large-scale purchase of new equipment covered by the aforementioned patent.

After that, he has two possible options of gaining the illicit proceeds from the patent:

- Selling the patent to an equipment manufacturer and receiving one-off proceeds (payment) from such manufacturer;
- Keeping the patent in his ownership and receiving royalty from an equipment manufacturer for each sold piece of equipment.

It is expedient to use the databases of the patent authorities for detecting the indicators of this typology. It should be noted that specified in patent applications is information on inventors, patent applicants and patent owners and, therefore, such application may contain important data on persons possibly involved in a criminal scheme.

Example 2 *Typology Involving Bribery of Government-Owned Companies' Officers by Large Foreign Companies for Arranging Large-Scale Procurement of Goods*

Several cases of large-scale bribery by the largest world corporations of officials in charge of placing public contracts for procuring large quantities of goods and products from the said corporations have been revealed in recent years in various countries. In particular, such giants as Siemens, DaimlerChrysler and Hewlett Packard were implicated in the massive corruption scandals. All those companies were subject to investigation conducted by the US authorities, pleaded guilty to giving bribes and paid multi-million fines.

These cases have common typological features. Firstly, goods were purchased at excessive prices. Secondly, the aforementioned companies used off-shore firms to pay bribes. Bribes were typically paid by cashless transfer of funds from an off-shore company's account to a foreign bank account owned by a top manager of a customer or by an intermediary controlled by a customer's top manager. Since the bribes were mainly paid by cashless transfer of funds, it

became possible to conduct the anti-corruption investigations and bring the companies that gave bribes and their officers to justice.

4. Most Typical Methods of Laundering of Criminal Proceeds

Examples of Successful Investigations of Public Procurement-Related Offences

In Armenia, breaches of the Armenian Procurement Law were detected in the child and juvenile care and protection boarding institutions placed under the supervision of the Ministry of Labor and Social Affairs.

Amount of funds provided to the non-school educational institutions under the “Public Contract for Non-School Education” Program and to the colleges under the “Public Contract for Secondary Vocational Education” Program exceeded the amount of funds allocated for these purposes in the Armenian State Budget.

Violations of the Armenian Procurement Law were also revealed in other educational institution that purchased goods, materials and services.

The detected violations included, in particular, failure to provide education to students under the signed contract with resulted in allocation of extra funds under the Government Program due to the breach of public contracts.

Besides that, a number of single-source procurement (without holding tenders) cases were also detected.

Another example includes non-recovery of full commission fee payable under the brokerage contracts for providing services related to procurement of goods for the communities and legal entities needs and also non-recovery of fines payable under the contracts for non-paid and untimely paid commission fees, etc.

According to the Agency of the Republic of Kazakhstan for Fighting Economic and Corruption Crimes (Financial Police) corruption crimes are committed at each stage of the public procurement procedure.

The first stage of commission of public procurement-related offences involves drawing-up a budget request for public procurement of goods or services (*a request is frequently drawn-up in such a way as to ensure that goods/services are purchased from particular “favorite” companies*).

The second stage typically involves provision of false substantiation of the cost of goods to be procured (*attachment of unjustified price-lists, need for particular goods, etc.*) in the process of substantiation of the submitted budget request.

The third stage involves the development of technical specifications that can be met only by a particular company and necessarily contain requirements for the foreign-made goods. In most cases, the winning companies themselves draw up such technical specifications.

The fourth stage involves rejection, during the bids evaluation process, of bids submitted by suppliers due to their non-compliance with the technical specifications or other parameters in order to select a particular company that has entered into collusion with a customer as the winner.

It is noteworthy that corruption-related offences are committed by both customers and suppliers. For example, corruption in the construction industry (one of the most corruption-infested sectors of economy) is featured by the following.

Customers:

When awarding a construction contract a customer may:

- revise and modify detailed requirements such as to ensure that they are met by particular suppliers;
- publish limited information on contracting opportunities;
- declare that a project is the urgent one in order to ensure that a contract is awarded to a single supplier without holding a tender;
- release confidential information contained in bids submitted by suppliers;
- disqualify potential contractors by setting unjustified requirements for suppliers prior to submission of bids;
- take bribes.

Suppliers may:

- agree on fixed offered prices;
- support discriminatory technical standards;
- unduly interfere into the experts' work;
- give bribes.

No less urgent is the problem of signing of false work acceptance certificates by public officers. One in three of all corruption-related crimes committed in the public procurement sphere involve such actions.

The operations of intermediate companies play special role in the public procurement system. It is these small suppliers that often act in the interests of certain corrupt public officials. They are established for providing services to the

national companies or open joint stock companies with substantial government shareholding.

However, in practice their operations frequently result in sales goods and services at excessive prices or in direct fraud and theft of third parties' assets.

In Tajikistan, the use of front companies in the schemes of laundering proceeds gained as a result of theft of public funds is the widespread practice. The results of investigation of criminal cases show that shell companies are used for stealing and laundering criminal proceeds in almost all detected crimes.

One of the examples is the criminal case investigated in 2008-2009 by the investigators of the Agency for State Financial Control and Combating Corruption. The investigation was instituted against the officials of one of the Government Agencies who were involved in the large-scale theft of funds allocated for procurement of equipment for the regional hospitals and also in laundering the stolen funds through a number of front/shell companies. The said persons received all transferred funds back in cash, except for small commission fees paid to the managers of these front companies.

In Russia the public health, architecture and construction, agricultural, education and IT sectors remain highly exposed to corruption-related crimes committed in the public procurement sphere.

In autumn 2010, the "urgent" 55,000,000 rubles worth order for establishing the social network was published 16 calendar days prior to the contract award date. The IT Department manager explained such short period of time for creating the social network by the need to submit the report on project completion till the end of the fiscal year. It strengthened the conviction that some company had already completed the project by entering into the "preliminary agreement" and the procurement process had been arranged only show that the formal procedure was observed. In the end, the tender was cancelled, but it was found that two more tenders were called in parallel with the cancelled tender. The development of the decision-making support system for physicians (medical doctors) and the electronic medical library was ordered for the same 55,000,000 rubles. In the end, the new tenders were cancelled and the IT Department manager was dismissed.

Conclusion

Thus, the conducted research shows that combating the public procurement-related offences is one of the priorities of the law enforcement systems of all countries that took part in the survey.

Data obtained in the course of the research demonstrate that the public procurement system covers a large number of sectors of the economy. In some cases in order to commit crimes and launder the criminal proceeds criminals along with the cash settlement system use the credit and financial mechanisms, which enable the financial intelligence units to effectively use the available resources for detecting involvement of companies, affiliated by civil servants, in illegal activities (inter alia, at early stages) and to provide the relevant information to the law enforcement agencies.

At the same time, engagement of the FIUs in combating public procurement-related offences is limited to measures undertaken at the request of the law enforcement agencies mainly during investigation of the committed crimes.

In order to enhance the role of the financial intelligence units in combating public procurement-related crimes it is expedient to recommend to:

1. Use the system approach for arranging the efforts undertaken in this area.
2. Integrate the data from the national public procurement system into the FIU information system.
3. Arrange for monitoring of public contracts in order to detect suspicious participants and tenders.
4. Computerize the procedure of identification of affiliated natural persons and legal entities.
5. Computerize the procedure of identification of front/shell companies and straw persons that are parties to public contracts.