

FINAL REPORT

of

INTERNATIONAL BUSINESS AND TECHNICAL CONSULTANTS, INC.  
COMPONENT II ADVISOR

on

DEVELOPMENT OF A CORRUPTION PREVENTION SYSTEM IN PUBLIC  
PROCUREMENT

for the

THE WORLD BANK PROJECT

DEVELOPMENT OF THE CORRUPTION PREVENTION AND COMBATING  
BUREAU OF LATVIA ON THE THEME OF PREVENTION

25 October 2006

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**Part 1. Assignment**

**1.1. Terms of Reference.** The Terms of Reference for this assignment specified that Assistance is needed [by Korupcijas Noveršanas un Apkarošanas Birojs (hereafter <KNAB>)] in order to develop corruption prevention system in the area of public procurement.<sup>1</sup> With regard to this, special attention has to be paid to issue of definition of status of members of procurement commission- would they be defined as public officials in general or only in particular cases; liability in cases when violations of procurement procedures have been detected; also, in which cases administrative charges are to be imposed and when a criminal liability has to be imposed; finally, development of control mechanisms and authority to impose administrative sanctions.

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<sup>1</sup>A procurement as used in the Terms of Reference means (according to Ms Dace Timane of KNAB in a statement to the author on August 29, 2006) only the period covered in the new Latvian Law on Public Procurement. That period begins with drafting of procurement documents and advertising and ends with signing of a contract. I have not, therefore, attempted to cover the period of performance after the signing of a contract.

**1.2. Performance of the Assignment.** The assignment has included (a) the review and analysis of existing Latvian laws and regulations and other documents (in English translations of variable quality) which relate to public procurement and corruption therein,<sup>2</sup> (b) preparing questions<sup>3</sup> in advance and meeting with representatives of governmental bodies, both those concerned with corruption in public procurement and those carrying out public procurements, private suppliers seeking public contracts, and a non-governmental organization concerned about public corruption,<sup>4</sup> and (c) a presentation to and discussion thereof with persons organized by KNAB including laws in other countries related to prevention of and punishment for corruption in public procurement.

## **Part 2. Contents of Report**

The next three sections of this report cover the existing situation in Latvia with respect to the prevention and punishment of corruption in public procurement, a comparison of laws in other countries with respect to preventing and combating corruption in public procurement, and recommendations for the better prevention and punishment of corruption in public procurement in Latvia.

## **Part 3. Existing Situation in Latvia with respect to Corruption and Public Procurement.**

**3.1 Transparency** is arguably the greatest inhibitor of corruption in public procurement, for, as the cliché goes, sunlight is the best disinfectant.

**3.1.1 Conflict of Interest Law.** The Law on Prevention of Conflict of Interest in Activities of Public Officials generally has excellent provisions for transparency. The Conflict of Interest Law does, however, fall short in the following respects:

**3.1.1.1 Declarations of Financial Interests.** It does not (a) require that information on debts and loans in declarations of financial interests include the

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<sup>2</sup>These laws and regulations and documents are listed in Annexes A and B hereto. Although there are other laws on public procurement, which are noted in Art. 3 of the new Law on Public Procurement as exceptions to its application, the assignment, in accordance with the basic thrust of the Terms of Reference, has not attempted to analyze those other laws in depth but has focused on the new Law on Public Procurement, the Law on Prevention of Conflict of Interest in Activities of Public Officials, and the Law on the Corruption Prevention and Combating Bureau.

<sup>3</sup>Questionnaires are included in Annex D hereto.

<sup>4</sup>The governmental bodies, private suppliers and associations of private suppliers, and non-governmental organizations whose representatives were met and questioned are listed in Annex C hereto.

interest rates and the effective dates of such rates; (b) require declarations of financial interests by lower-level officials, e.g., members of procurement commissions, for the two years after they have left public office; (c) apparently, require that all declarations include information on negotiations for private employment before and after leaving public office; (d) although restricting shareholding in commercial companies which receive public contracts, restrict shareholding in the *parent* companies of such commercial companies; nor (e) apparently, prohibit public officials, e.g., members of procurement commissions, from concurrently having financial interests in private companies which have contracts with the Government (except that high-level public officials are prohibited from having such interests if their companies did not secure their public contracts as a result of an open competition. See **RECOMMENDATION 1**

**3.1.1.2 Actions of present and former public officials.** It does not (a) prohibit public officials from representing private companies in public procurement so long as such public officials do not utilize the powers of their public offices in connection with any matters involving such private companies nor (b) restrict former public officials from influencing the actions of their former governmental agencies. See **RECOMMENDATION 2**

**3.1.2 Transparency and public procurement.** The Law on Public Procurement (the Law) is erratic in its transparency requirements (*cf.* **3.2.2** and **3.2.3** below), which increases the opportunities for hiding corruption in public procurement. The Freedom of Information Law is unlikely to be very useful for obtaining information about procurements when the later-enacted Procurement Law negates the availability of such information.

**3.2 Procurement Law and Procedures.**<sup>5</sup> The Law on Public Procurement lacks a table of contents, rational organization, clarity, and simplicity, which means that (a) the best-intentioned public officials and private participants will find compliance with its confused meanderings difficult, opening such public and private actors to unjustified allegations of purposeful and, perhaps, corrupt violations and (b) opportunities for corruption are created. See **RECOMMENDATION 3**

**3.2.1 Comprehension of the Law.** Procuring entities say that the Law is

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<sup>5</sup>These comments are based on an unofficial English translation of the Law, so they may at times be mistaken. One of the defects in the translation is its frequent use of different words to refer to the same things, which often confuses matters, e.g., the translation renders the word defined in Art. 1(10) as *Aclient*, but elsewhere the translation uses the term *A procurer*, which is not defined but appears also to mean the entity defined in Art. 1 (10). (Except when related to corruption in procurement, I do not comment on the many unclear provisions of the Law nor on the many provisions which will undesirably and unnecessarily delay the conclusion of the procurement process.)

difficult to understand (see 3.2 above) and they and the Procurement Monitoring Bureau (PMB; see 3.2.11 below) say that officials handling public procurements often possess a poor knowledge of the Law (cf. 3.2.12 below). The advice and training provided by the PMB (see 3.2.11.4 below) and its new Guidelines should help in this respect, but the many *lacunae* in the Guidelines limit their usefulness (cf. 3.2.5.2, 3.2.8, and 3.2.11.4 below). See **RECOMMENDATION 18**

**3.2.2 Publication requirements.** The Law has extensive publication requirements, but in many cases it exempts from or omits such requirements for matters that should also be published (cf. 3.2.8 below). See **RECOMMENDATION 4**

**3.2.3 Public access to information.** The Law exempts from its application procurements which the Cabinet of Ministers declares to be confidential or to involve state secrets or fundamental state interests.<sup>6</sup> The Law provides for only limited public access to all documents involved in procurements (cf. 3.2.2 above and 3.2.8 below) and, except for publication, the Law does not apply to procurements valued at less than L10,000. See **RECOMMENDATION 5**

**3.2.4 Fair and equal competition.** Although the Public Procurement Law generally provides for fair and equal competition for all suppliers, there are provisions in the law which might open the way for favoring some suppliers at the expense of others (cf. 3.2.5 and 3.2.8 below) and suppliers have complained of bias against them by commission members. See **RECOMMENDATION 6**

**3.2.5 Small-value procurements. See RECOMMENDATION 7**

**3.2.5.1** The Law specifies that it applies only to procurements valued at L10,000 or more. The recently promulgated Cabinet of Ministers Regulation 762, which sets forth requirements for procurements valued at more than L1,000 but less than L10,000, drastically reduces information, publication, and public access requirements for such procurements from those that the Law requires for larger procurements, has no provisions for fair and equal treatment of all suppliers, and appears to authorize negotiation in all cases. No requirements apply to procurements of L1000 or below. The Law does forbid splitting procurements to avoid required procurement procedures.<sup>7</sup>

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<sup>6</sup>KNAB and the State Chancellery are currently investigating a *secret procurement for rental cars* [sic!] by the Ministry of Interior, KNAB Press Release, Oct. 10, 2006.

<sup>7</sup>KNAB Raising the Institutional and Professional Capacity of the Corruption and Combating Bureau (Part B and C), Procurement and lease component? (hereafter Ramboll), KNAB 2005/12, Rambøll Management, ' 4.1.2.1.1, states that the PMB does not guard against such splitting by monitoring contracts below L10,000.

**3.2.5.2** Such small-value procurements are the bread-and-butter of procurements by some 450 municipalities, who are notorious for bending procurement rules. (The municipality of Sigulda, however, has promulgated guidelines for conducting such procurements.). Thus corruption really has *carte blanche* for small-value procurements. When notices of such procurements are published, they are often published in local newspapers and obscure websites, which makes it difficult for suppliers to learn of them. PMB's new Guidelines provide no guidance with respect to such procurements (*cf.* **3.2.11.4** below).

### **3.2.6 Procurement Commissions**

**3.2.6.1 Functions.** The Law provides that, for a procurement which is to be conducted by open or closed bidding, a price survey, or negotiation, a procuring entity shall establish a procurement commission to perform all steps, including drafting of procurement procedure documents, evaluation of the qualifications of suppliers, and evaluation of bids. The acts of a commission are binding on the procuring entity if a contract is concluded.

**3.2.6.1.1 Technical specifications.** Although it is not clear in the Law whether the technical specifications, whose drafting is notoriously slanted to illegally favor friends, are procurement procedure documents? within the meaning of that term in **3.2.6.1**, in practice their drafting is not done by the procurement commission. See **RECOMMENDATION 8**

**3.2.6.1.2 Procurement documents.** There do not appear to be any standard procurement documents used by all Latvian public procuring entities (*cf.* **3.1.2.11.4** below), although some entities have developed their own. Documents which are custom-drafted by procuring entities may be more easily exploited by corruptors than documents which have been standardized for use by all procuring entities. Suppliers complain of not being able to get the documents from a web page or by e-mail but having to go to the procuring entity to get paper documents. See **RECOMMENDATION 9**

**3.2.6.2 Tenure and membership.** The Law specifies that a procurement commission may be established separately for one procurement, for a specific period of time, or as a permanent institution, that the members of the commission must be competent in that area of procurement in which the contract is to be concluded, and that the commission may ask for expert assistance. The Law does not specify how the chairman of the commission is selected and it does not otherwise specify how the members of a commission are to be selected (although Art. 35(4)3 does require that a procurement procedure report be prepared [apparently after the procurement commission has completed its evaluation of bids but before a contract is signed] which shall include an explanation of why the specific commission members were selected?). The Law is silent on suspension or removal of members of a commission or on their recusal in case of conflicts of interest,

but Sec. 20(2) of the Conflict of Interest Law does provide that “[t]he head of a State or local government authority has a duty to transfer by a written order the performance of any function or task to another public official if the public official who should perform the specified function or task in conformity with the duties of office is in a conflict of interest situation,” Cf. 3.2.4 above. See **RECOMMENDATION 10**

**3.2.6.3 Declaration of non-interest in bidders.** The Law requires declarations of any interests in bidders by members of procurement commissions and invited experts (and for members of the Complaints Review Commission [see 3.2.11.5 below] and their specialists and experts). The Procurement Law uses ambiguous language which is different from the language of the Conflict of Interest Law. The definitions in neither law appear broad enough to cover friends and other intermediaries. See **RECOMMENDATION 11**

**3.2.6.4 Regulation of procurement commissions.** ' 23(7) of the former procurement law provided that the activities of procurement commissions should be regulated by regulations of the Cabinet of Ministers, pursuant to which the Cabinet of Ministers issued Regulation No. 742, Regarding Activities of a Procurement Commission. Since the former law has been superseded, it is unclear whether Regulation No. 742 is still in force. Ramboll reports<sup>8</sup> that members of procurement commissions, in an attempt to escape responsibility, do not sign commission decisions, which ' 15 of the Regulation mandated for all commission members. See **RECOMMENDATION 12**

### **3.2.7 Qualification of suppliers and blacklisting.**

**3.2.7.1** Questions have been raised, with respect to procurements bid for by distributors, of collusion between manufacturers and procuring entities to choose a favored distributor. The Law does not appear to provide any way for a bidder who is not found qualified to challenge that decision except by filing a complaint with the PMB.

**3.2.7.2** There are no provisions in the Law providing for blacklisting suppliers who are disqualified from procurements for violations of the Law or of other laws for fraudulent, corrupt, criminal, or unethical behavior, so disqualification from participation in one procurement by one procurement commission will not normally be known by other procurement commissions. See **RECOMMENDATION 13**

**3.2.8 Negotiation procedure.** If prior approval is given by the PMB, negotiation may be used, *inter alia*, for procurements if competitive bidding was previously held for the procurement and no responsive bids were received or there were no qualified bidders. No notice of such procurement need be published if invitations for negotiation are then issued to prior qualified bidders. The Law’s description of what

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<sup>8</sup>*op. cit.*, ' ' 3.2, 4.2.2.

happens thereafter is impossible to understand;<sup>9</sup> the Guidelines issued by the PMB for the current Law are of little help -- in purporting to interpret Art. 62(1)1) of the Law on the use of negotiation, the Guidelines (pp. 24-25) fail to include the Law's reference to prior price surveys and the required prior approval of the PMB (*cf.* 3.2.11.4 below). This lack of clarity in the Law as well as limited requirements for publication when negotiation is used and limited public access to all procurement documents (see 3.2.3 above) provides an avenue for corruption both in the selection of suppliers and in the terms of negotiated contracts. **See RECOMMENDATION 14**

**3.2.9 Safeguarding bids before public opening.** Neither the Public Procurement Law nor the PMB Guidelines have any detailed provisions as to the disposition and safeguarding, before the public opening, of submitted bids to prevent any covert access to them or disclosure of their contents. ! 19 of the Conflict of Interest Law appear to prohibit disclosure of such information. **See RECOMMENDATION 15**

**3.2.10 Public bid opening.** The provisions of the Law for public opening of bids do not clearly and unequivocally provide for full public access to such openings nor fully describe how such openings are to be conducted. There are complaints that not enough information about bids is read out at the opening while this was done formerly. **See RECOMMENDATION 16**

**3.2.11 Procurement Monitoring Bureau.** The Law establishes the PMB under the Finance Ministry to, *inter alia*, oversee procurement procedures so as to ascertain that they are in compliance with the requirements of the law; . . . Offer methodological assistance, consultations and training for procuring entities [and suppliers]; Review complaints about violations of procurement procedures . . . ?  
**See RECOMMENDATION 17**

**3.2.11.1 Independence.** The PMB's subordination to the Ministry of Finance has subjected it to political pressures, casting doubt on its objectivity when it (a) gives advice on the Law, (b) monitors compliance with the Law, and (c) resolves complaints. Also its participation in procurement procedures as advisor, monitor, and reviewer of complaints can result in significant institutional conflicts of interest (*cf.* 3.2.11.5.5 below).

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<sup>9</sup>In commenting on the prior procurement laws somewhat similar provisions for use of negotiation, the State Audit Office said "Different paragraphs of the Procurement Law give two conflicting statements under the same circumstances . . . .", Annual Report 2002, "Analytical assessment of materials by audit themes, 1. Public procurement

**3.2.11.2 Monitoring compliance with the Law.** To determine compliance with the Law, the PMB relies exclusively on complaints by suppliers and bidders. The PMB has no power to sanction violations of the Law which are not the subject of complaints, but it does refer suspicious matters which come to its attention to KNAB or the Competition Commission. KNAB<sup>10</sup> has proposed that the Administrative Violations Code be amended to empower the PMB to sanction violators of the Law administratively. See **RECOMMENDATION 19(e)**

**3.2.11.3 Staff pay.** Qualified procurement professionals often leave the PMB for higher pay in the private sector, which means that it may be handicapped in giving the best advice to procuring entities. See **RECOMMENDATION 22**

**3.2.11.4 Guidance to procuring entities.** The PMB provides advice to procuring entities, has developed Guidelines, and provides one-day courses on the procedures for carrying out procurements. The Guidelines seem to be considerably better organized than the Law itself, so in this respect they should be of considerable help to procurement commissions; the quality of the Guidelines is not, however, uniformly high (*cf.* 3.2.5 and 3.2.8 above). The PMB does not provide standard documents for use in procurements, which means that procurement commissions have a relatively free hand to write procurement documents as they please, which may leave loopholes for unequal treatment of suppliers and lack of transparency, thus virtually inviting corruption (*cf.* 3.2.6.1.2 above). See **RECOMMENDATION 18**

**3.2.11.5 Complaints Review Commission.** The Law provides that the PMB shall establish a Complaints Review Commission (CRC) composed of PMB officials to handle complaints about procurement procedure matters. See **RECOMMENDATION 19**

**3.2.11.5.1** Only complaints filed by interested suppliers or bidders may be considered by the CRC.

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<sup>10</sup>Public Report 2005, p. 11.

**3.2.11.5.2** Apparently, complaints about the *activities* of the procuring entity or the procurement commission during the conduct of a procurement procedure may be submitted to the CRC anytime before a contract resulting from the activities complained about is signed.<sup>11</sup> Before complaints about procurement *documents* may be submitted to the CRC, however, they must first, no later than six business days before the deadline for submitting bids, be submitted to the procuring entity; if the procuring entity, within two business days of receipt of the complaint, has neither cured the matters complained about nor given the complainant a written response, the complaint may then be submitted to the CRC, but no later than the deadline for submitting bids. Complaints not submitted to the CRC by the foregoing deadlines may be adjudicated only in the administrative courts.

**3.2.11.5.3** Signing of the contract (which would result from completion of the procurement activities or documents complained about) must, upon receipt of notice from the PMB of the filing of a complaint, be deferred by the procuring entity until the CRC has ruled on the complaint.

**3.2.11.5.4** If the CRC determines that violations [presumably of the Law] are significant and may influence a decision on awarding procurements rights, the PMB is to forward the CRC's decision and minutes to KNAB.

**3.2.11.5.5** The PMB's prior involvement in procurements, e.g., giving assistance, approval of negotiation, checking of notices, and monitoring compliance with the Law, means that it may have been involved in the very activities which are the subject of complaint, so the CRC, as an instrument of the PMB, cannot be relied upon to resolve complaints independently and objectively (*cf.* **3.2.11.1** above), even though interested members may recuse themselves because of participation in the procurements at an earlier stage.

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<sup>11</sup>Ramboll refers to the many examples where contracts are signed before the end of the "cool [sic]-off period" in order to leave the CRC without juridical competence to review the procurement, p. 15.

**3.2.12 Compliance with the Law.** Ramboll reported<sup>12</sup> that “only actions that are expressly prohibited under the law is [sic] thought of as illegal, whereas other actions of a <shady> nature may not be sanctioned even though they [sic] of a clearly problematic nature. . . .” and that “there seem [sic] to be a general conception among many civil servants that it is more or less without consequence to disregard some or many of the formal procedural requirements in a given procurement.? The former procurement law provided (in ' 37) that “For the implementation of this law in accordance with their competence the contracting authority, procurement commission, or authorized person responsible for the performance of the procurement shall be subject [to administrative or criminal liability].” The new law includes no express provision imposing liability or sanctions for violation of its provisions (*cf.* **3.2.11.2** above), but see **3.3.2.2** below. See **RECOMMENDATION 20**

### **3.2.13 Internal controls and competence**

**3.2.13.1 Code of conduct.** Although ' 22 of the Conflict of Interest Law refers to ethical codes and recusal for ethical reasons, I am unaware of any code of conduct that is signed by all public officers and employees who are involved in public procurements. See **RECOMMENDATION 21**

**3.2.13.2 Staffing.** Procuring entities, the PMB, and audit units may not have sufficient staff who are adequately trained and experienced in procurement matters to carry out their functions capably and efficiently and who are paid enough so that they do not defect to the private sector as soon as they have been adequately trained and have acquired procurement experience (*cf.* **3.2.1** and **3.2.11.3** above). See **RECOMMENDATION 22**

**3.2.13.3 Detection of corruption.** As noted in **3.2.11.2** above, the PMB relies on complaints by suppliers and bidders to pinpoint procurement violations so, if there is no complaint, procurement violations which may involve corruption usually go undetected by the PMB. KNAB is primarily concerned with violations of the Conflict of Interest Law and not with pursuing violations of the Procurement Law which, although they might involve corruption, do not involve violations of the Conflict of Interest Law; of course, it may be alerted to corruption in procurements by complaints or referrals, *e.g.*, see **3.2.11.5.4** above and **3.3.1** below. See **RECOMMENDATION 23**

**3.2.13.4 Internal audits.** All procuring entities are audited on a regular basis by internal auditors, or private auditors in case a procuring entity does not have an internal audit unit. See **RECOMMENDATION 24**

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<sup>12</sup>*loc. cit.*

### **3.3 Countering corruption**

#### **3.3.1 Mechanisms and incentives for exposing corruption**

**3.3.1.1 Free press.** The press in Latvia is, to all extents and purposes, free and one of the leading means for exposing corruption.

**3.3.1.2 Duty of public officials to report violations.** I am unaware of any duty imposed by Latvian law on individual public officials to report violations of laws which involve corruption by public officials employed by other institutions. See **RECOMMENDATION 25**

**3.3.1.3 Hotlines and whistleblower protection.** KNAB provides a hotline for reporting corruption, and reporters of corruption can be awarded, but there is no protection for such whistleblowers against reprisals except the anonymity of the hotline. See **RECOMMENDATION 26**

**3.3.1.4 External Audits** All procuring entities are audited on a regular basis by the State Audit Office as well as by internal auditors (see **3.2.13.4** above). The State Audit Office is primarily interested in the financial reports of procuring entities, but in its audits of such financial reports it may encounter procurement problems related to corruption, which it will then highlight and refer to KNAB. Non-compliance with its recommendations after audits results in subjecting the non-complying institution to more rigorous auditing the next time around. See **RECOMMENDATION 27**

#### **3.3.2 Enforcement**

**3.3.2.1 Body for corruption eradication.** KNAB is an independent agency armed with powers, including investigation and the imposition of administrative sanctions (such as warnings and fines), which could be used to root out corruption in public procurement; KNAB does not, however, give special attention to corruption in public procurement (see **3.2.13.3** above). KNAB's budget must be approved by the Prime Minister (who refers it to the Cabinet of Ministers) before submission to the Parliament. See **RECOMMENDATION 23**

#### **3.3.2.2 Administrative and criminal sanctions**

**3.3.2.2.1 Liability for non-compliance.** As noted in **3.2.12** above, the Procurement Law contains no express provision imposing liability for non-compliance with its requirements. Awarding contracts without required competition, disclosure of confidential information, violating transparency requirements, disqualifying bidders unlawfully, and unlawfully favoring a bidder are subject to sanctions under the

Administrative Violations Code, such as warnings or fines of up to L250, and some are punishable under the Criminal Law by custodial arrest, community service, or a fine of up to L1,080. See **RECOMMENDATION 20**

**3.3.2.2.2 False declaration of interests.** Submission of a required declaration of interests which is incomplete, false, or misleading subjects the declarant to an administrative fine of up to L250 or criminal penalties, in some cases, however, only if “substantial harm has been caused thereby”.

**3.3.2.2.3 Bribery.** Although the KNAB law includes bribery in the definition of corruption, neither the Conflict of Interest Law nor the Public Procurement Law *in haec verba* prohibits acceptance of bribes by public officials; the Latvian criminal law does, however, penalize bribery by imprisonment of up to eight years, with or without confiscation of property.

**3.3.2.2.4 Collusion.** There do not appear to be any provisions in the Public Procurement Law prohibiting collusion between bidders or bidders and public officials. ' ' 11(1) 1) and 5) of the Competition Law appear to prohibit such collusion and ' 12 provides for fines for violation of the prohibition; I am unaware of any criminal penalties for collusion. See **RECOMMENDATION 28**

**3.3.2.2.5 Fraudulent claims and kickbacks.** There appear to be administrative and criminal offenses (exceeding authority, using official position in bad faith, and failure to act) which might be used to prosecute public officials for conspiring to pay fraudulent claims by contractors against the Government and for extorting kickbacks from contractors..

**3.3.2.3 Prosecutors and judges.** Apparently, it is questionable whether there has been any reduction in (a) interference by the Ministry of Justice in judicial matters, (b) corruption among prosecutors and lower-court judges, or (c) unconscionable delays in adjudication from that reported in 2002,<sup>13</sup> so I am unable to say that judicial enforcement of anti-corruption measures taken by KNAB and other Latvian Government bodies is executed without corruption and with diligence.

#### **Part 4. Comparison of Laws in Other Countries to Prevent and Punish Corruption in Public Procurement.**

**4.1 United States of America.** The United States is a federal nation composed of the federal government and 50 states. The federal government and each of the states has its

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<sup>13</sup>?Corruption and Anti-corruption Policy in Latvia,? EU Accession Monitoring Program, Open Society Institute, 2002, pp. 323-24.

own procurement and anti-corruption laws. This comparison will treat the laws and regulations of the federal government alone.

**4.1.1 Declarations of financial interests.** The President, the Vice President, Senators, Representatives, and officers and employees occupying managerial positions, on assuming office and annually thereafter, and candidates for Congress and the Presidency and Vice Presidency are required to file declarations of financial interests.

**4.1.1.1** In some respects the declarations are less strict than under the Latvian Conflict of Interest Law, e.g., only loans exceeding \$10,000 in value need be declared; apparently the rates of interest thereon need not be specified.

**4.1.1.2** In other respects the U.S. law is more strict, e.g., it requires the declaration of gifts received valued above ca. \$250.

**4.1.1.3** Officers and employees are prohibited from participating in any manner that would affect the financial interests of any person with whom employment is being sought.

**4.1.1.4** Officers and employees are prohibited from representing private parties before the Government.

**4.1.1.5** There do not appear to be any restrictions on financial interests in commercial companies.

**4.1.2 Actions of present and former officials.** Former officers and employees (a) are prohibited from influencing the actions of their former governmental agencies for a period of two years after they have left public office and (b) may not accept compensation from a contractor as an employee, officer, director, or consultant within one year after serving in procurement procedures related to that contractor.

**4.1.3 Publication requirements and public access to information.**

**4.1.3.1** Contract awards must be announced immediately.

**4.1.3.2** Publication may be limited only if the synopsis cannot be worded to preclude disclosure of an agency's needs and such disclosure would compromise the national security (e.g., would result in disclosure of classified information). The fact that a proposed solicitation or contract action contains classified information or that access to classified matter may be necessary to submit a proposal or perform the contract does not, in itself, justify use of this exception . . . ?

**4.1.3.3** I cannot always find exact parallels to Latvian Public Procurement

Law provisions, but it seems that the United States usually requires more publication and public access than the Latvian Law requires. Submitted proposals, e.g., for consultancy contracts, may not always be available to the public.

#### **4.1.4 Fair and equal competition and small-value procurements**

**4.1.4.1** All prospective suppliers must be sent, in the form of an amendment, information given to any one supplier.

**4.1.4.2** The evaluation criteria must be included in the procurement documents sent suppliers and bids must conform to the requirements of the procurement documents.

**4.1.4.3** There are special programs aimed at providing equal opportunity for small and disadvantaged businesses.

#### **4.1.5 Technical specifications and procurement documents.**

**4.1.5.1** Agencies shall select existing requirements documents or develop new requirements documents that meet the needs of the agency in accordance with the guidance contained in the Federal Standardization Manual . . . .

**4.1.5.2** To the extent practicable . . . potential offerors should be given an opportunity to comment on agency requirements or to recommend application and tailoring of requirements documents and alternative approaches. Requiring agencies should apply specifications, standards, and related documents initially for guidance only, making final decisions on the application and tailoring of these documents as a product of the design and development process. Requiring agencies should not dictate detailed design solutions prematurely.

**4.1.5.3** All solicitations exceeding \$25,000 in amount must be available electronically through the Government-wide point of entry.

**4.1.6 Procurement commissions.** The whole public procurement procedure is usually conducted by different individuals at different times with the Contracting Officer being ultimately responsible for all that is done in the procurement process.

**4.1.7 Declaration of non-interest in bidders.** It is a crime for an officer or employee to participate in any matter in which he has a direct or indirect financial interest.

**4.1.8 Qualification of suppliers and blacklisting.** There does not seem to be a procedure for challenging a determination that a supplier is not qualified to perform the contract in question short of filing a formal complaint. An extensive system of blacklisting

of suppliers exists and the General Services Administration maintains central blacklists.

**4.1.9 Safeguarding of bids before opening.** Submitted bids must be placed in a locked bid box, a safe, or in a secured restricted-access electronic bid box.

**4.1.10 Public bid opening.** Bids must be received not later than the exact time set for opening. The bid opening officer shall (1) personally and publicly open all bids . . . , (2) if practical, read the bids aloud to the persons present, and (3) have the bids recorded.

**4.1.11 Procurement Monitoring Bureau.** The Office of Federal Procurement Policy is responsible for overall direction of government-wide procurement policies and gives some guidance. The General Services Administration provides procurement training, and, I believe (the GSA website is inaccessible at all times of the day), a database on government procurements, and standardization of procurement documents.

**4.1.12 Complaints Review Commission.** Protests may be filed with the procuring entity or the General Accountability Office. There are rigid time limits for protests filed with the procuring entity; protests based on apparent improprieties in the solicitation must be filed before the deadline for submission of bids, but the procuring entity may decide to consider the merits of any protest not timely filed. Other protests may be made after contract award. Protests, according to procuring entity procedures, may be considered at a level in the procuring entity above the Contracting Officer or by the Contracting Officer and, if appealed, then by the level in the procuring entity above the Contracting Officer. Protests apparently may be filed only by suppliers or bidders. The only way to blow the whistle on corruption appears to be to report it to an inspector general or the Department of Justice through the FBI.

**4.1.13 Compliance with the Law and liability for non-compliance.** There are no express provisions in the procurement laws and regulations imposing liability for violating the law except for disclosing confidential bid or contractor selection information.

**4.1.14 Code of Conduct.** There does not appear to be any code of conduct that must be agreed to by officers and employees. The regulations do, however, state:

Government business shall be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none. Transactions relating to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct. The general rule is to avoid strictly any conflict of interest or even the appearance of a conflict of interest in Government-contractor relationships. While many Federal laws and regulations place restrictions on the actions of Government personnel, their official conduct must, in addition, be such that they would have no reluctance to make a full public disclosure of their actions.

**4.1.15 Detection of corruption and body for corruption eradication.** There is no specific institution for corruption eradication, dependence being placed on procuring-

entity inspector-generals and normal law-enforcement bodies

**4.1.16 Internal audits.** There do not appear to be any internal audits in procuring entities, but where there are inspector generals, they perform a similar function; I am unaware of whether they pay special attention to procurements.

**4.1.17 Duty of public officials to report violations.** A government-wide regulation on the basic obligation of public service states that employees must disclose waste, fraud, abuse, and corruption to appropriate authorities. A statute requires agency heads and witnesses to report violations of criminal law by officers and employees.

**4.1.18 Hotlines and whistleblower protection.** There are laws on whistleblower protection, though in general they do not appear to be effective. Many procuring entities have established hotlines.

**4.1.19 External audits.** The General Accountability Office conducts audits of procuring entities, but I am unaware of any concentration on procurement matters.

**4.1.20 Collusion.** Collusion among bidders and public officials in procurement procedures is a criminal offense.

**4.2 Indonesia.** Indonesia is a unitary state rife with corruption at all levels of the national Government, provincial governments, regional governments, and local governments; all levels of the judiciary; the police, prosecutors, and private lawyers; and throughout the legislature. Transparency International has classified Indonesia as the sixth most corrupt country in the world. (Some of the information below is not current but from the year 2000.)

**4.2.1 Declarations of financial interests.** The Corruption Eradication Commission (KPK) is authorized to require wealth reports from officials and to investigate those reports. Late filing of the reports is not penalized. The KPK has publicized the reports from the Cabinet. KPK audits and investigations have revealed that many declarations are irregular.

**4.2.2 Procurement law and procedures.** There is no national procurement law except for the Construction Law. The Presidential Instruction that governs procurement other than for construction is unclear in many respects.

**4.2.3 Publication requirements and public access to information.** There are no requirements for widespread publicity and no provision for public access.

**4.2.4 Fair and equal competition.** The Presidential Instruction on procurement limits competition by calling for fair competition among firms of equal standing, giving

wide discretion to determine which firms are of equal standing.

**4.2.5 Tenure and membership of procurement commissions.** Procurement commissions are formed of low-level officials, vulnerable to outside and internal pressures, to handle procurements from inception to contract award.

**4.2.6 Qualification of suppliers and blacklisting.** The Presidential Instruction calls for competition among firms of equal standing. There is no provision for blacklisting.

**4.2.7 Public bid opening.** Bids are not opened in public.

**4.2.8 Procurement Monitoring Bureau.** No organization has an oversight role on public procurement policy and compliance.

**4.2.9 Complaints review commission.** There are no provisions for complaint resolution.

**4.2.10 Compliance with the law and liability for non-compliance.** There are no incentives for efficiency and honesty and, because of a poorly managed civil service and weak judiciary, no penalties for corruption, though this is changing because of the KPK.

**4.2.11 Staffing.** Procurement commissions are usually untrained and there is no clear career stream for procurement specialists.

**4.2.12 Detection of corruption and body for corruption eradication.** An active Corruption Eradication Commission was established in 2002, and is provided with substantial stimulus and clues by an NGO, Indonesia Corruption Watch. The KPK has jurisdiction of cases inflicting losses of more than \$100,000 on the nation; it may summon anyone, however, high; it can request the President to suspend officials to facilitate prosecution; it can gain access to bank accounts of suspects; and can take cases over from the police and prosecutors. In April the new antigraft court sentenced the Governor of a province to ten years in prison (where he joined a former Government Minister of Trade and Industry, the former chief of a Government trading agency, former election commission members, and others jailed for corruption) and he was removed from office for embezzling over \$1 million in the purchase of a Russian-made helicopter.

**4.2.13 Hotlines and whistleblower protection.** A whistleblower protection act has been passed by the House of Representatives this past July. It provides for the establishment of the Protection of Witnesses and Victims Body. The law protects witnesses, victims, and family members against civil or criminal prosecution based on their reports and testimony, which has been a serious problem in Indonesia in the past where prosecutions for defamation have been wielded by the government and corruptors.

**4.2.14 External audits.** The External Audit Agency is active in auditing state

agencies, but I don't know whether it gives priority to public procurement. Government auditors lack familiarity with procurement principles and procedures.

**4.3 Malta.** Malta has a very detailed Public Contracts Regulation, promulgated in 2005 to comply with the EU procurement directives. Malta has a central procuring agency, the Department of Contracts, whose use is mandatory for most procuring entities. I will not cover a procurement issue below unless it is not covered in the EU directives or the Maltese practice differs.

**4.3.1 Actions of present and former public officials.** There are no restrictions on the activities of former public officials.

**4.3.2 Procurement law and procedures.** The Maltese regulations have a table of contents, are organized fairly logically, and are usually not difficult to understand.

**4.3.3 Small-value procurements.** There are detailed requirements for small-value procurements; in Malta a small-value procurement is one whose value does not exceed about \$60,000. Procurements valued at less than about \$7,500 may be procured without competition; competition is required for procurements valued between about \$7,500 and \$60,000.

**4.3.4 Technical specifications.** The Department of Contracts must approve procurement documents before they are issued and must ensure that the technical specifications do not favor or discriminate against any supplier.

**4.3.5 Procurement documents.** The Department of Contracts provides standard procurement documents.

**4.3.6 Procurement commissions and Procurement Monitoring Bureau.** Procurement Committees and Contracts Committees advise on procurements, make recommendations for award of contracts, report irregularities to the Minister in charge of the procuring entity and make recommendations thereon, hear and determine disputes, and investigate complaints and make recommendations thereon.

**4.3.7 Complaints Review Commission.** Complaints before a contract is signed are determined by the Department of Contracts, and the decision may be appealed to a civil court. Pre-contract complaints for procurements valued at more than about \$60,000 are determined by the Public Contracts Appeals Board and must be accompanied by a deposit equivalent to 1% of the estimated value; the decision of the Board may be appealed to a civil court. Complaints with respect to signed contracts valued at between about \$15,000 and \$60,000 are adjudicated by the General Contracts Committee, whose decision may not be appealed; such complaints require a deposit of about \$300.

**4.3.8 Code of conduct.** The Code of Ethics for Employees in the Public Sector indicates that sanctions may be applied in case of violation of its provisions, but there is no requirement universally that they sign such codes and accept that a breach will result in disciplinary proceedings.

**4.3.9 Body for corruption eradication.** There are several bodies responsible for detecting and investigating corruption, the Tribunal for the Investigation of Injustices, Ombudsman, and Permanent Commission Against Corruption; the later may issue recommendations to the President of Malta to prevent further corruption.

**4.3.10 Duty of public officials to report violations.** Public officials are required to report cases of corruption to their superiors.

**4.4 Finland.** Finland has an extremely sketchy public procurement law which has been implemented by a decree -- the decree is available only in Finnish and Swedish, so what is stated here is based on the public procurement law alone. There is central purchasing body for works, goods, and services which may, but need not, be used for procurements by public entities. The Finnish law and decree are based on the EU procurement directives. I will not cover a procurement issue below unless it is not covered in those directives and the Finnish practice is known.

**4.4.1 Declarations of financial interests.** A declaration of vested interests and affiliations is required before appointment of a public official. A civil servant may not hold another job without permission, which is based on a risk assessment of the impact of the ancillary job on the impartiality and proper performance of the civil servant. There are no requirements applicable to public officials moving to the private sector.

**4.4.2 Public access to information.** The Constitution provides that everyone has a right of access to an official document which is public, and all documents are public unless a decision of secrecy has been taken. Public officials are required to act affirmatively to supply information to the public.

**4.4.3 Procurement Monitoring Bureau.** There is a Public Procurement Advisory Unit, an independent body formed by the Ministry of Trade and Industry in conjunction with the Association of Finnish Local and Regional Authorities, which provides free advice on the public procurement law and on good procurement practices.

**4.4.4 Complaints Review Commission.** Complaints may be made to the Market Court, which depends on the Ministry of Justice, within fourteen days of receipt of a procurement decision adverse to the complainant. The Market Court may require correction of any action of a contracting entity or order the contracting entity to compensate a complainant that would have had a real chance of winning the contract if the

procedure had been correctly followed. There is no appeal from a decision of the Market Court with respect to public procurement; otherwise an appeal may be made to the Supreme Administrative Court.

**4.4.5 Code of conduct.** The State Civil Servants' Act serves as a code of conduct. There are ethical guidelines for procurement.

**4.4.6 Body for corruption eradication.** Finland has no anti-corruption strategy for public administration.

**4.4.7 Duty of public officials to report violations.** A public official is supposedly normally responsible for reporting illegal activities observed.

**Part 5. Recommendations to Prevent and Punish Corruption in Public Procurement in Latvia.** Public procurement throughout the world is rife with corruption and public procurement in Latvia can be no exception. More discretionary government spending is in procurement than in any other governmental activity. Public procurement is regarded by those looking for opportunities for easy, and not necessarily legal, money, as a honeypot which is well worth gobbling up. Below are my recommendations for minimizing corruption in Latvian public procurement; (numbers refer to the same-numbered sections in **Part 3** of this report).

### **3.1.1.1 Declarations of Financial Interests**

**RECOMMENDATION 1:** The Law on Prevention of Conflict of Interest in Activities of Public Officials should be amended so that:

(a) the declarations of public officials include, with respect to debts and loans, the rates of interest being paid and the effective dates of such rates in order that KNAB can determine whether market rates of interest have been paid;

(b) declarations of financial interests are required, for two years after they have left public office, of lower-level officials, e.g., members of procurement commissions, who are often embroiled in corruption in public procurements;

(c) to aid KNAB in determining whether kickbacks and other corruptive practices are being rewarded by employment, require that all declarations include information on negotiations for private employment before and after leaving public office; and

(d) restrictions on interests in commercial companies which receive public contracts include interests in the parent companies of such commercial companies.

### **3.1.1.2 Actions of present and former public officials**

**RECOMMENDATION 2:** The Law on Prevention of Conflict of Interest in Activities of Public Officials should be amended so that:

(a) former public officials are prohibited from influencing the actions of their former governmental agencies for a period of, perhaps, two years after they have left

public office; and

(b) so as to reduce the likelihood of corruption in public procurement, in all procurement procedures public officials are prohibited from representing private companies.

### **3.2 Procurement Law and Procedures**

**RECOMMENDATION 3:** A table of contents should be provided for the Law. The Law should be rewritten so that it is organized more logically and is clearer and simpler.

#### **3.2.2 Publication requirements**

**RECOMMENDATION 4:** The Procurement Law should be amended as follows so that suppliers, bidders, and the public will have sufficient time and opportunity to take action with respect to matters in which they are or might be interested:

(a) Art. 27 requires publication only 48 days, or in only one announcement per quarter after awards have been decided upon. Publication should be immediate in order to give unsuccessful bidders or the public time to question a proposed award in order to nip in the bud any misprocurement due to corruption.

(b) Article 28(4) excuses from publication information which might hinder the implementation of the law, hinder competition among suppliers, or harm the justified public or private commercial interests of suppliers. This is an unneeded exemption (see **RECOMMENDATION 5(a)** below) and an unwarranted abuse of transparency and fair and equal competition opening the way to corruption. Arts. 32(4) and 79(7) exhibit the same defects. The provisions should, therefore, be deleted from the Law.

(c) Art. 35 specifies documents and reports which must be maintained for procurement procedures but does not provide for publication of the reports, which can be done easily on the appropriate website(s) as provided in Art. 28. This provision should be amended accordingly to require such publication.

(d) The provision in Art. 62(1)1) that publication is not required for negotiation with bidders who were not disqualified in the antecedent procedure should be changed to require publication of the names of the invited suppliers since a member of the public or a supplier not invited to negotiate may have a legitimate objection to such proceeding. As noted in **3.2.8**, negotiation provides ample openings for corruption, so the more sunlight to which it is subjected, the better.

(e) Likewise, when negotiation is undertaken pursuant to Arts. 63 and 64(2), a

notice should be published for the record.

(f) Again, publication, as provided in Art. 28, of the names of suppliers included in a dynamic procurement system and all contracts awarded thereunder pursuant to Art. 66 should be required, for the more transparent the procedure, the less likelihood of corruption.

(g) Art. 67(3) specifies that service contracts involving public-private partnerships may run for 30 years if so decided by the Cabinet of Ministers. Again, any decision of the Cabinet of Ministers which could have such a long-lasting effect should be published in accordance with the requirements of Art. 28.

(h) Information about design competitions referred to in Arts. 70(2), 73(3), and 79(1) and notice of the availability of the report referred to in Art. 79(6) should also be published per Art. 28.

### **3.2.3 Public access to information**

#### **RECOMMENDATION 5:**

(a) The provision in Art. 3(3) permitting the imposition of secrecy is notoriously abused, *cf.* the *secret* procurement for *rental cars* by the Ministry of Interior!<sup>14</sup> The Law should, therefore, be amended to require that any procurements excepted under Art. 3(3) be conducted to the maximum extent feasible in accordance with all the requirements of the Procurement Law and that all information required by Art. 28 be timely published on the PMB website for all such exceptions unless exemption from publication of some of such information has been provided for in writing by a declaration of the Cabinet of Ministers, but that in all cases, as a minimum, the name of the procuring entity, the subject of the procurement, and the value thereof be published.

(b) Likewise, the provisions of Art. 12(1) and (2) are much too broad. Subarticle (1) should be amended to provide that any such protection of information by the procuring entity must be justified in a writing, which justification shall be given to and approved by the PMB before any procurement documents have been delivered to suppliers, and that all such justifications be included in the documentation and reports required by Art. 35. Subarticle (2) should be amended to specify that no information required to be submitted by all bidders (i) may be excluded from use in qualification of suppliers or in bid evaluation and in bid evaluation must have the same consideration and weighting given it as is applied to such information in all other bids and (ii) otherwise may not be so

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<sup>14</sup>This is currently being investigated by KNAB and the State Chancellery, KNAB Press Release, Oct. 10, 2006.

protected from disclosure if such information is not protected from disclosure by the Freedom of Information Act.

(c) Bids and the signed contract should be available for inspection by the public after the contract has been awarded, for otherwise there is no way to verify whether the information provided which purports to comply with the requirements of Art. 35 is accurate or has been edited to cover up evidence of corruption; the parenthetical phrase in Art. 35(3) should, therefore, be deleted and the words *including all bids and the signed contract* should be substituted therefor.

(d) The information specified in Art. 35(4) to be included in a report on each procurement procedure should also include a detailed recitation of any differences between the draft contract which was in the procurement documents provided suppliers and the contract which was actually signed and an explanation and justification for each such difference. Art. 35(6) should also provide for mandatory submission of the report to the Procurement Monitoring Bureau.

(e) Art. 36 requires that the originals of all procurement documents referred to in Art. 35(3) be stored for 10 years. It should also require that such original documents be maintained by the procurer in its premises in a space or a library open to all members of the public; in each such space or library there should be timely made available to all members of the public, copies of the documents required to be published and, after award of the contract, the documents, reports, and protocols required by Article 35, as amended in accordance with **RECOMMENDATION 5(d)** above, to be created, maintained, and published. All persons should have the right to inspect and copy, on a copying machine readily accessible on the premises or within a convenient distance, all such documents, reports, and protocols.

(f) Art. 69, which lists information from procurement contracts which should be freely and universally available, should either be deleted or amended to conform to Arts. 35 and 36 as amended pursuant to **RECOMMENDATIONS 5(d) and (e)** above.

### **3.2.4 Fair and equal competition.**

#### **RECOMMENDATION 6:**

(a) Art. 29(3), (5), and (7) provide for publication of amendments to procurement documents only on a web page. All suppliers who have already obtained the procurement documents must be directly notified of all such amendments at the same time as they are sent for publication so that they will be accorded equal treatment and these provisions of the Law should be amended accordingly. Art. 30(2) provides that if a supplier has

requested additional information, the procurer shall release such information -- it does not, however, require that all such additional information be sent to all suppliers who have requested the procurement documents. In order to avoid favoring the single supplier which requested the additional information, this provision should be revised to provide that all such information shall, at the same time as it is sent to the requesting supplier, be (i) sent to all suppliers who have requested the procurement documents and (ii) published as provided in Art. 28. Likewise, Art. 47 should clearly provide that any information submitted to any bidder or bidders must be submitted to all bidders and sent for publication per Art. 28 at the same time as it is submitted to that bidder or bidders; Art. 55(1) should be revised to provide that all information and answers to questions given at a meeting be published as per Art. 28 and be sent directly to suppliers not at the meeting; and the second sentence of Art. 65(5) should be revised to provide that such written consultations should be held with all bidders on the same terms. Also, if Cabinet of Ministers Regulation No. 742, Regarding Activities of a Procurement Commission, is not still in effect, ' 7 thereof, which limited the information that might be given out during a procurement procedure, should be re-enacted or incorporated in the Law..

**(b)** Art. 46, which specifies the criteria for selecting a bid, should provide that the procuring entity must specify the evaluation criteria to be applied in the documents provided all suppliers before bids are submitted. If this is not done, the procuring entity could, after bids are opened, select evaluation criteria which favor only one or a select group of suppliers.

**(c)** Also, one of the evaluation criteria that must be met in all procurements is that the bid selected for award must have complied with all the terms and conditions of the procurement documents -- if this is not required, the procurement commission would have unfettered discretion to select a bidder for award even though he/she/it did not meet all the conditions of the procurement documents, opening procurements to favoritism and corruption on a grand scale -- for example, awarding the contract to a bidder who did not provide required bid security would give that bidder an unfair advantage over bidders who did meet that requirement. Arts. 46, 56, 57(2), 60(1), 65(7)4), and 66(5) should be amended accordingly and Arts. 56(5) and 60(4) should be amended to provide that the next bidder must have complied with all of the terms and conditions of the procurement documents and that the procuring entity must proceed to forfeit the bid security, if any, of the refusing bidder.

**(d)** A new provision along the following lines should be added to the Law to help ensure equal treatment of all suppliers and bidders:

Procuring entities shall treat suppliers non-discriminatorily and, except for suppliers who are, under other provisions of this Law, ineligible to participate, shall provide them with equal opportunity to participate in all procurement procedures whether or not they have, previously or currently, initiated a dispute proceeding before the Complaints Review Commission or

whatever their nationality, ethnicity, language, religion, sex, age, or membership in a labor organization.

### **3.2.5 Small-value procurements**

**RECOMMENDATION 7:** Cabinet of Ministers Reg. 762 should be revised to include provisions for fair and equal treatment of all suppliers, should place restrictions on the use of negotiation instead of bidding or price surveys, and should require transparency with respect to information, publication (which, Art. 28(5) of the Law, permits to be done on the PMB website even if publication is not required by the Law), and public access approximating that applicable to larger procurements and the PMB Guidelines should also provide for equal treatment of all suppliers and provide for much greater transparency.

#### **3.2.6.1.1 Technical specifications**

**RECOMMENDATION 8:** As technical specifications are so often slanted to favor certain suppliers at the expense of the rest, the Law should provide that:

(a) standard technical specifications for common-use items such as, but not limited to, furniture, computer equipment, office supplies, maintenance contracts, and motor vehicles be prepared in draft by a central government agency, such as the PMB, the State Agency for Electronic Procurement, or a new institution, and then posted on the PMB and other Internet sites for one or two months for comment by suppliers and the public. After expiration of the comment period, they should be revised in accordance with such comments to make them fair to all suppliers and should then be mandated for use without change by all government procuring entities.

(b) technical specifications for non-common-use goods, services, and works be prepared in draft well in advance of the appointment of a procurement commission for the procurement for which the technical specifications are intended to be used and then be posted on the PMB and other Internet sites for a reasonable period, perhaps, three weeks, for comment by suppliers and the public in advance of the first advertisement of the procurement. After expiration of the comment period, they should be revised in accordance with such comments to make them fair to all suppliers and then mandated for use in the procurement in question.

#### **3.2.6.1.2 Procurement documents.**

**RECOMMENDATION 9:** To reduce opportunities for corruption in custom drafting of procurement documents by procurement commissions, standard procurement documents should be drafted by a central government agency, such as the PMB, the State Agency for Electronic Procurement, or a new institution, and their use by all procuring entities be

mandated. Also, documents should be available on web pages or by e-mail.

### **3.2.6.2 Tenure and membership of procurement commissions**

**RECOMMENDATION 10:** The provision in the Law for permanent procurement commissions should be deleted and the Law should be amended or a Cabinet of Ministers regulation promulgated to provide:

(a) (i) how the chairman and other commission members are to be selected, (ii) that no official be appointed to a procurement commission who does not understand and is not able to carry out the requirements of the Law on Public Procurement, (iii) that each member give a written undertaking, to be included in the declaration which Art. 23(3) of the Law on Public Procurement requires, that he agrees to comply fully with the requirements of the Law on Public Procurement and carry out his obligations and duties as a member of the procurement commission honestly, faithfully, and to the best of his ability, and (iv) that a written explanation of why each official was selected be prepared by the appointing authority of the procuring entity and made a part of the procurement record at the time of appointment of each member;

(b) that membership in procurement commissions be rotated frequently, perhaps every three months, and that no member be appointed more often than, perhaps, once a year to a procurement commission with any other member with whom he has previously served;

(c) that procuring entities be empowered to request in writing to other procurement entities to second officials to serve on procurement commissions except that they may not in their request name an individual desired but can only give the qualifications desired in the seconded official, and that the entities to whom a request is made comply with such requests unless they provide a written justification to the requesting entity of why they cannot comply;

(d) a procedure for the removal of members for dereliction of duty, lack of qualifications, or other justified cause, and a requirement that the reasons for the removal be given in a writing which shall be made a part of the procurement record contemporaneously with the removal;

(e) a procedure for recusal of commission members in case of conflict of interest;

(f) for provisions such as were made in Cabinet of Ministers Regulation No. 742 if that Regulation is not still in force;

(g) that each member of a procurement commission, including the chairman, is

individually responsible and liable for all commission decisions to which he did not take written exception; and

**(h)** that the secretary of state or head of each procuring entity shall specify in writing who in the procuring entity is responsible for overseeing each procurement commission, monitoring the actions of the commission and its members, ensuring that the commission acts in compliance with the Law on Public Procurement and other applicable laws and regulations, and taking action to correct any wrong or unlawful behavior by the commission or any of its members.

### **3.2.6.3 Declaration of non-interest in bidders**

**RECOMMENDATION 11:** The language of the Procurement Law in Art. 23(1) uses language which is different from that used in the Conflict of Interest Law to define relationships and interests. The Procurement Law language should be modified to conform to the terms used in the Conflict of Interest Law except when the different terms used in the Procurement Law are more restrictive than those used in the Conflicts Law and are clearly necessary to avoid conflicts of interest in procurements.

### **3.2.6.4 Regulation of procurement commissions**

**RECOMMENDATION 12:** In addition to **RECOMMENDATION 10(f)** the Law should be amended or a Cabinet of Ministers regulation promulgated to require that copies of decisions of a procurement commission per Arts. 23(4) and (5) and 24 be immediately given to the official responsible for supervision of the commission per **RECOMMENDATION 10(h)**.

### **3.2.7 Qualification of suppliers and blacklisting**

#### **RECOMMENDATION 13:**

**(a)** It would be desirable for the Law to provide that a supplier not found qualified to participate in the procurement procedure be notified as soon as the decision has been made so that he may rebut the reasons for his disqualification to the procurement commission instead of having to formally complain to the PMB.

**(b)** The Law should be amended to provide that each procuring entity shall also exclude from procurements suppliers who have, per Art. 39(1)4), violated the Law on Public Procurement; that each procuring entity notify **(i)** the Procurement Monitoring Bureau of suppliers excluded pursuant to the first clause of this sentence or otherwise

pursuant to Art. 39 and the reasons for such exclusion and (ii) each excluded supplier of the reason for its exclusion and that notice thereof is being given the PMB; and that the PMB maintain and periodically publish, per Art. 28, a blacklist of such excluded suppliers; and that all procuring entities must exclude from all of their procurements all blacklisted suppliers. The provision should also specify requirements that must be met for removal of suppliers from blacklists, either by petition or the passage of time.

### **3.2.8 Negotiation procedure**

**RECOMMENDATION 14:** As the provisions for the use of negotiation in Arts. 62 and 63 of the Law are impossible to understand and do not provide for necessary publication and public access to all procurement documents, negotiation may provide an access for corruption both in the selection of suppliers and in the terms of negotiated contracts. The provisions should, therefore, be completely redrafted so that the principles of clarity and simplicity, fair and equal treatment of suppliers, and transparency are upheld and full reports should be timely provided to the PMB of all uses of negotiation including what publication was made, what was contained in the procurement documents, how suppliers were selected for negotiation, and the complete text of all contracts concluded.

### **3.2.9 Safeguarding bids before public opening**

**RECOMMENDATION 15:** A Cabinet of Ministers regulation for safeguarding of bids submitted before the deadline for the public opening should include a description of the procedures for deposit of such bids in a double-locked container dedicated to the receipt of bids, for the keys to be held by two different officials named in the minutes of the procurement commission before the procurement documents are sent to suppliers, and for a register to be signed by the officials holding the keys each time that the locked container is opened. All procuring entities should be encouraged to expeditiously adopt provisions for full use of electronic resources for all procurements when adequate provisions for safeguarding of bids and secure signatures are in place so that the use of paper bids will no longer be necessary.

### **3.2.10 Public bid opening**

**RECOMMENDATION 16:** A Cabinet of Ministers regulation should detail the procedures for the public bid opening, including provisions that the procurement documents should specify the place and deadline for the submission of bids and the place and time for their opening, which time shall be the same as the deadline for submission; that bidders' representatives and members of the public may in person observe and record each stage of the procurement process to which more than one bidder is admitted including

the public opening and, when electronic bidding is used, online; and that the information specified in Art. 55(5) of the Law, information to indicate whether all of the documents required by the procurement documents to be submitted have been submitted, as much other information contained in the bids as practical, and answers to questions from those attending as to the contents of individual bids be read and given aloud including, without the necessity of a request, financial bids. The second sentence of Art. 53(2) should be deleted as it appears to be inconsistent with Art. 55(5), which provides a needed protection against hanky-panky as bidders will not be able, after the public opening, to covertly change terms of their bids which have been read aloud; also, Arts. 53(1) and 55(4) should provide that members of the public as well as bidders will be admitted to the opening.

### **3.2.11 Procurement Monitoring Bureau**

**RECOMMENDATION 17:** As previously noted, the difficulty in understanding the Law, the opportunities it provides for favoring a few suppliers at the expense of others, its lack of transparency, and the absence of standard procurement documents, of a centralized blacklist of ineligible suppliers, and of effective guidance to procuring entities provide myriad openings for corruption in Latvian public procurement. The PMB has institutional conflicts of interest when it is supposed both to give advice on the Law and to monitor compliance with the Law and resolve complaints under the Law. My recommendation to eliminate this institutional conflict of interest and to make the PMB more effective in blocking loopholes in public procurement which provide corruption with entry points, is that the PMB have only the functions of improving the Law, providing a central web page, creation of a central database for public procurement, standardization of public procurement documents and procedures, establishment of a central blacklist, and related and supporting functions, while the monitoring of compliance with the Law and resolving complaints be hived off initially to an independent Complaints Review Commission, with subsequent referrals for investigations and sanctions to KNAB and the Prosecutor General in cases involving corruption and crime. To that end, I suggest that the Law be revised or that a Cabinet of Ministers regulation be promulgated to empower the PMB to develop policies and procedures to promote cost-effective, fair, open, and effective competition, transparency, and international standards and best practices for all public procurement including:

Collection and analysis of and creation and maintenance of a databank of information on all procurements, including data on existing suppliers and contractors, prices paid for similar goods, services, and works by different procuring entities in order to detect patterns and anomalies which might indicate corruption; world prices; and standard specifications of commonly used goods, works, and services such as cars, computer equipment, maintenance services, and office supplies. The PMB shall make such data accessible to and shall disseminate it widely to procuring entities, KNAB, and the public;

Recommendations for legislation and regulations to carry out the purposes of the Law on Public Procurement ;

Issuance of guides and provision of advice to procuring entities for procurement;

Application of electronic commerce;

Measurement of the performance of procuring entities and suppliers;

Harmonization of the systems and practices of all procuring entities;

Issuance of standard documents for use by all procuring entities for all procurements including technical specifications for common-use goods, works, and services;

Promotion of economies of scale by the use of volume purchasing for Government requirements and intra-Government procurement;

Maintenance of registers of qualified suppliers;

Maintenance of blacklists of suppliers excluded pursuant to Art. 39 of the Law;

Promotion and support of training of officials engaged in procurement and, in collaboration with supplier-s associations and professional agencies, building of public procurement capacity in Latvia;

Undertaking research into the needs of procuring entities;

Operation of a professional development scheme for officials of procuring entities including adherence to proper ethical standards; and

Preparation of an annual report on the functioning of procurement for the Cabinet of Ministers and the Parliament.

#### **3.2.11.4 Guidance to procuring entities**

##### **RECOMMENDATION 18:**

(a) One-day courses are not sufficient for public officials engaged in procurement to achieve an understanding of the confusing Procurement Law. I recommend that such courses be increased to at least two weeks in length and that all courses for public officials

be funded at the expense of the Government of Latvia

(b) The Guideline prepared by the PMB should be improved considerably and I recommend that the PMB do so.

(c) The PMB should prepare a table of contents for the Law and put considerable effort into recommendations for organizing it more logically and clarifying and simplifying its language.

### 3.2.11.5 Complaints Review Commission

#### RECOMMENDATION 19:

(a) In accordance with **RECOMMENDATION 17** the Complaints Review Commission (CRC) should be made an independent body<sup>15</sup> with budgetary independence and a head chosen on merit so that there would be no institutional conflict of interest with the PMB. The members and staff of the CRC should not come from the PMB but should be selected on the basis of experience in procurement and the Law. Complaints should be lodged directly with the CRC, not via the PMB. The CRC should post complaints on the PMB website or, when it has its own website, there.

(b) The rigorous time limits for complaints presently in the Law should be loosened, and the CRC should have jurisdiction even when the contract has already been signed.

(c) Anyone, not just bidders, should be able to complain of a violation of the Procurement Law and all complainants should have the power to summon witnesses and testify and to appeal decisions of the CRC.

(d) All meetings at which bidders or other complainants are present should be open to the public.

(e) The CRC should not have investigative powers, but, in addition to being able to delay or prohibit the signing of a contract, it should be able to cancel a contract or impose administrative sanctions when it decides that there have been violations of the Procurement Law. The CRC's decisions should name all persons who the CRC has determined have violated the Procurement Law and specify what provisions of the Law

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<sup>15</sup>Cf. Section 8(6) of the Competition Law: "Directions regarding . . . the manner in which . . . a decision [is] taken, may not be given to the Chairperson and members of the Competition Council by the Cabinet, the Minister for Economics or other persons."

each has violated. In addition to imposing administrative sanctions, when it suspects corruption by public officials or private persons, it should be able to refer the matter directly to KNAB and/or the Prosecutor General.

(f) The decisions of the CRC shall be published on its or the PMB's website and those decisions and the minutes, except for those of closed meetings, shall be able for inspection by the public.

### **3.2.12 Compliance with the Law and 3.3.2.2.1 Liability for non-compliance**

**RECOMMENDATION 20:** In order to dispel any illusion among public officials and private persons that not all provisions of the Law are mandatory and that in conducting or participating in public procurements in Latvia they need not comply with all provisions of the Law, a provision along the following lines should be added to the Law: Procuring entities, procurement commissions, and all other public officials and all private persons performing procurements under the Law are responsible for compliance with the Law and are subject to administrative or criminal liability for not complying with the Law.

#### **3.2.13.1 Code of conduct**

##### **RECOMMENDATION 21:**

(a) A code of conduct along the lines of that in Annex E hereto should be promulgated by KNAB or the PMB, the top officials of all procuring entities should sign the code and be trained in the importance of the code in emphasizing that ethical precepts must be followed in all public procurements and the requirements of the code, and those officials should in turn train all their officials involved in procurement in the importance and requirements of the code and require them to sign it.

(b) The PMB should publicize to suppliers the code of conduct, the Conflict of Interest Law, and the requirements of the Procurement Law for treating all suppliers equally and fairly and prohibiting public officials from accepting any favors from suppliers and call the attention of suppliers to such prohibitions in the criminal law.

#### **3.2.13.2 Staffing**

**RECOMMENDATION 22:** The additional functions suggested in these recommendations for KNAB and the PMB cannot be successfully carried out if the budgets of those institutions do not provide the additional funds which will be required for such functions and the officials to carry them out, if their staffs do not include sufficient skilled and trained public officials to carry out such functions, and if those public officials

are not paid enough to reduce the likelihood of their defection to the private sector after they have gained experience at the expense of the public sector. I, therefore, recommend that such funding be made available by the Government of Latvia so as to minimize corruption in public procurement.

### **3.2.13.3 Detection of corruption and 3.3.2.1 Body for corruption eradication**

**RECOMMENDATION 23:** KNAB should concern itself with violations of the Procurement Law even though they might not at first blush appear to involve corruption, for public procurement is from all reports rife with corruption and a violation of the Law should be regarded as presumptive evidence of corruption. KNAB should consider establishing a procurement group staffed with investigators trained or experienced in the Procurement Law who keep tabs on CRC complaints and investigate those whose probable explanation is corruption, whether or not the PMB or CRC makes a referral to KNAB on them

### **3.2.13.4 Internal audits**

**RECOMMENDATION 24:** Because procurement is such a rich trove of corruption, it would be desirable if the internal auditors in all institutions were to receive training in the Procurement Law and instructed to give special attention to procurement matters in all audits.

### **3.3.1.2 Duty of public officials to report violations**

**RECOMMENDATION 25:** The Conflict of Interest Law and the KNAB Law should be amended to impose a duty on all public officials to report to KNAB instances of corruption or probable corruption of which they are aware.

### **3.3.1.3 Hotlines and whistleblower protection**

**RECOMMENDATION 26:** The KNAB Law should be amended to prevent reprisals against those reporting corruption.

### **3.3.1.4 External audits**

**RECOMMENDATION 27:** Because procurement is such a rich trove of corruption, it would be desirable if the auditors of the State Audit Office were to receive training in the Procurement Law and instructed to give special attention to procurement matters in all audits.

#### **3.3.2.2.4 Collusion**

**RECOMMENDATION 28:** Collusion among bidders or among bidders and public officials in public procurement procedures should be made a criminal offense in Latvia.

**Annex A Latvian Laws and Regulations (in English translation) reviewed and analyzed:**

1. Public Procurement Law, effective May 1, 2006
2. Procurement for State of Local Government Needs Law, as amended through March 11, 2004
3. Corruption Prevention and Combating Bureau Law, effective May 1, 2002
4. Prevention of Conflict of Interest in Activities of Public Officials Law, effective May 10, 2002
5. Procurement for the Needs of Public Service Providers Law, effective April 14, 2004
6. State Audit Office Law, as amended through June 22, 2005
7. Sections of the Code of Criminal Procedure, effective October 1, 2005
8. Sections of the Code of Administrative Violations, effective July 1, 1985
9. Concessions Law, effective February 16, 2000
10. Prevention of Squandering of the Financial Resources and Property of the State and Local Governments Law, as amended through November 15, 2001
11. Competition Law, as amended through April 22, 2004
12. Freedom of Information Law, November 6, 1998
13. Internal Audit Law, November 20, 2002
14. Electronic Documents Law, November 20, 2002
15. Activities of a Procurement Commission, Cab. Reg. 742, effective December 23, 2003
16. Restricted Procedure, Cab. Reg. 531, effective June 8, 2004
17. Procurement Procedures and Application Thereof to Projects Funded by Contracting Authority, Cab. Reg. 603, effective July 13, 2004

**Annex A Latvian Laws and Regulations (in English translation) reviewed and analyzed (cont.):**

18. Basic demands for setting up an internal control system, Cab. Reg. 466, August 19, 2003
19. Contract About Using Microsoft Information Technologies in the Public Sector, Cab. Reg. 68, January 25, 2005
20. Procurement Procedures where estimated contract price is more than 1000 lats but less than 10,000 lats, Cab. Reg. 762, September 16, 2006

**Annex B Other Latvian Government documents (in English translation) reviewed and analyzed:**

1. The National Strategy on Corruption Prevention and Combating for 2004-2008
2. The National Program for Corruption Prevention and Combating for 2004-2008
3. Information on complaints to and decisions thereon by the Complaints Review Commission of the Procurement Monitoring Bureau
4. Information on complaints relating to public procurement forwarded by the Procurement Monitoring Bureau and made directly to KNAB
5. Other documents provided by KNAB and other agencies and individuals relating to public procurement in Latvia and corruption thereunder
6. Guidelines for procurement under the Public Procurement Law, PMB, June 5, 2006
7. Annual Reports of the State Audit Office
8. Public Report 2005 of KNAB

**Annex C Governmental bodies, private suppliers, and non-governmental organizations whose representatives were interviewed:**

1. KNAB
2. Procurement Monitoring Bureau
3. Complaints Review Commission
4. Prosecutor General
5. Sigulda Municipality
6. State Audit Office
7. Ministry of Transportation
8. Ministry of Agriculture
9. State Agency for Electronic Procurement
10. Department of Internal Audit of the Ministry of Agriculture
11. Private suppliers
12. Delna

## **Annex D Questionnaires submitted in advance of meetings**

### **1. QUESTIONS FOR A KNAB OFFICIAL (PROBABLY A LAWYER)**

(These questions are based on an unofficial English translation of the KNAB Law)

1. Is preventing, fighting, and punishing corruption in public procurement a function of KNAB under Art. 7(1)3) (Amonitor observance of . . . any other restrictions for State officials provided in normative acts; 7(1)5) (Areview complaints . . . within its authority, and 8(1)1) Acharge State officials with administrative liability and impose punishment in cases of administrative violations in the area of corruption, as provided by law? Cf. Art. 84(9) of the Law on Public Procurement.
2. Why doesn't Art. 7(1)7) cover criminal referrals to the Prosecutor General? Why is 7(1)7 necessary in view of 8(1)1) and 10(1)3)?
3. Would Arts. 8(1)2) and 10(1)2) cover criminal corruption by civil servants under the procurement law?
4. Do Arts. 10(1)4) and 7) require that information, etc. requested by KNAB be supplied to KNAB?
5. Why doesn't Art. 10(1)16) also cover administrative offenses?
6. Is KNAB authorized to receive from individuals complaints of corruption?
7. Whose approval external to KNAB is required before KNAB's budget is submitted to Parliament?

### **FURTHER KNAB INFORMATION NEEDED**

Who determines and how is it determined whether to treat a matter as administrative or criminal? Couldn't one matter sometimes involve both administrative and criminal violations?

Criminal cases

How many and what proportion of the complaints of criminal corruption received by KNAB involve procurement?

## **Annex D Questionnaires submitted in advance of meetings (cont.)**

### **1. FURTHER KNAB INFORMATION NEEDED (cont.)**

Of those involving procurement, what are the details of the procurement law violations?

What are the details of the cases marked on pp. 28, 30, and 32 of the 2005 KNAB report?

Of those involving procurement that were eventually referred to the Prosecutor General, what are the details of the procurement law violations?

Of those that were adjudicated that involved procurement, what are the details of the procurement law violations?

Administrative cases

How many and what proportion of the complaints of administrative corruption received by KNAB involve procurement?

Of those involving procurement, what are the details of the procurement law violations?

Of those involving procurement that were eventually punished administratively, what are the details of the procurement law violations?

Were there any disciplinary punishments imposed or only fines?

Other matters

The 2005 KNAB report said that there were problems of assignments related to the development of internal anti-corruption measures within institutions that were completed. What were the problems?

For a complaint, is it sufficient to report it anonymously on the KNAB hotline, or does the complainant has to do something more in order for KNAB to regard it as a formal complaint?

## **Annex D Questionnaires submitted in advance of meetings (cont.)**

### **1. FURTHER KNAB INFORMATION NEEDED (cont.)**

What is the present status of the task set in the Natl Programme, which is related to improvement of regulations on charging persons who have committed violations of the procurement procedure with liability, referred to in the 2005 KNAB report in the first full paragraph on p. 11?

The 2005 KNAB report (on p. 15) refers to 98 cases although a violation of regulations was discovered in actions of state officials, they were referred to other institutions because they were not under the competence of KNAB. Why wasn't KNAB competent to handle them?

Is the report underlined on p. 24 of the 2005 KNAB report available in English?

## **Annex D Questionnaires submitted in advance of meetings (cont.)**

### **2. QUESTIONS FOR Procurement Monitoring Bureau**

(When I use the word you, it's usually shorthand for the PMB)

My mandate is to make recommendations to KNAB for better preventing and combating corruption in public procurement.

1. What problems do you know of that procuring entities have in working under the new procurement law? Is the new law clear or are there problems in understanding and following it?
2. Do procuring entities usually have any written guidance or procedures from PMB for making procurements under the new law? Who usually handles the drafting of procurement documents? Do you have standard documents for use in all procurements?
3. Who usually supervises procurements in procuring entities?
4. How do procuring entities prevent and control the occurrence of corruption in procurements under the new law? By corruption I mean bribery or any other action by a Government official intended to gain a benefit for him/herself or other persons by means of his/her office or authority or by overextending such office or authority. How about for procurements under the 10,000 Lat threshold?
5. (a) How do procurement commissions usually operate? Might it be desirable to have the earlier stages of the procurement process, e.g., document drafting, handled not by the procurement commission but elsewhere in the procuring entity, while leaving the procurement commission to function starting only with bid opening? (I note that CoM Reg. 742 did not provide for document drafting by the commission.) When in the procurement process are the commissions appointed? Who appoints them? Who supervises their operations, i.e., is responsible for their actions and can impose administrative sanctions on them if they have violated the procurement law or are involved in corrupt practices? Why weren't the provisions of CoM Reg. 742 with respect to signing decisions ('15) not incorporated in the new law?  
  
(b) Why does the procurement law, in Art. 23, prohibit members of a

## **Annex D Questionnaires submitted in advance of meetings (cont.)**

### **2. QUESTIONS FOR Procurement Monitoring Bureau (cont.)**

procurement commission from having any interest in a bidder and require them to file a declaration of non-interest since the Conflict of Interest Law already (i) prohibited, in Sec. 11(1), such members to perform official activities in which they have a financial interest and (ii) in Sec. 21(1) 1) required them to file a declaration regarding any financial interest they might have and, in chapter IV, to file periodic declarations of their financial interests?

(c) When do they sign the declarations required under Art. 24(3) of the procurement law and what is done with those declarations? Do you know of any problems related to such declarations? Is the making of a false declaration punishable administratively or criminally?

6. Why are there no provisions in the law specifying sanctions for violations of the other rules laid down by the law? Why was no provision like Sec. 37 of the old procurement law put in the new law?

7. In the English translation of the law the word Aparticipant@ appears in Art. 23(1) 1). What does it mean?

8. What procedures and rules, if any, do procuring entities follow for procurements whose estimated value is below 10,000Lats?

9. How can the splitting of procurements to bring them below the 10,000 Lats threshold be guarded against?

10. Do you know whether procuring entities usually comply with the publication requirements of the law?

11. How do procuring entities decide whether to require bid and performance security? Do you know whether procuring entities usually require the forfeit of such securities in case of violation of their terms?

12. There do not appear to be any provisions in the law specifying precisely what procedures must be followed with respect to the handling of bids received before opening. What do procuring entities usually do with bids which are received before the time set for opening? Is the PMB satisfied that the electronic documents law?

## **Annex D Questionnaires submitted in advance of meetings (cont.)**

### **2. QUESTIONS FOR Procurement Monitoring Bureau (cont.)**

sufficiently protects the secrecy of bids received electronically before opening as required by Art. 34?

13. How are bid openings usually handled?

14A. I understand that some procuring entities may sign contracts before end of the Acooling-off period required by the Law in order to deprive the Complaints Review Commission of jurisdiction to review complaints about a proposed award. Has the PMB done anything to stop such practices?

14B. What is usually done with the actual contract documents after the contract is signed? Who are usually permitted to see such documents?

15. To prevent and control corruption in procurements, are there matters that should be covered, but are not, or should be covered in a different way in the new law or in other laws and regulations?

16. Do you know of instances of corruption in procurements under the new law? Please describe them and tell us how they have been handled.

17. Are procurements audited? By whom and when?

18. Do you know of instances of exceptions granted under Art. 3(3)?

19. Art. 26 does not specify any time by which announcements must be published. Why is that?

20. Why does Art. 28 require publication only on websites when small suppliers may not have internet access?

22. Why do Art. 35(3) and (4) and Art. 36 not provide for full access (a) to all bids after award of the contract and to (b) the signed contracts?

23. Does the PMB have sufficient experienced and trained staff to fully carry out all its functions?

## **Annex D Questionnaires submitted in advance of meetings (cont.)**

### **2. QUESTIONS FOR Procurement Monitoring Bureau (cont.)**

24. How does the PMB operate to prevent and combat corruption in the procurement process?

25. The PHARE Ramboll report says that the PMB has established detailed regulations for procurement in accordance with the EC Procurement Directive 2004/18. If so, we should appreciate copies of the PMB regulations.

26. Would the PMB be able to function better if it were an independent authority instead of being under the Ministry of Finance?

27. Please describe how the PMB carries out the following functions set forth in Art. 81:

27.1 to oversee procurement procedures for compliance with the law;

27.2 to demand full information about procurements at any stage of the procurement process;

27.3 to correlate and analyze statistical information about procurements;

27.4 to offer consultation and training for procuring entities and suppliers;

27.5 to provide other functions pursuant to other laws.

28. What is the status of the guidelines for use of the procurement law that I understand the PMB and the Danish Association of Municipalities are developing?

29. When a procuring entity decides to reject all bids or not to award any contract at all, what safeguards are there to prevent this being done only to favor a bidder whose bid was not the lowest?

## **Annex D Questionnaires submitted in advance of meetings (cont.)**

### **3. INTERVIEW Q-S FOR Complaints Review Commission**

My mandate is to make recommendations to KNAB for better preventing and combating corruption in public procurement.

(When I say Ayou, I usually mean the Commission)

1. How many members does the Commission have? How many are Government officials? What are the backgrounds of the members? Do the members work fulltime for the Commission or only part-time? What are their salaries or other compensation as members?
2. Have any complaints to the Commission involved corruption in public procurement? Please describe such complaints and their disposition by the Commission.
3. Are there details in the procurement law which have handicapped the Commission in dealing effectively with complaints about public procurement? Are there changes in the procurement law which would be desirable in order for the Commission to review complaints more effectively? Cf. the provision of Art. 83(2) that a complaint may not be submitted after the relevant procurement contract is concluded and that of Art. 83(4) that a complaint may be submitted to the procuring entity no later than six business days before the deadline for submitting bids.
4. How independent of the Procurement Monitoring Bureau is the Commission? Has the Procurement Monitoring Bureau ever intervened or attempted to intervene in the Commission's review of complaints under the procurement law? Would the Commission be better able to perform its functions under the law if it were to be completely independent of the Procurement Monitoring Bureau?

## **Annex D Questionnaires submitted in advance of meetings (cont.)**

### **4. INTERVIEW Q-S FOR PROSECUTOR GENERAL**

My mandate is to make recommendations to KNAB for better preventing and combating corruption in public procurement.

(When I say you, I usually mean the office of the Prosecutor General)

1. Have you had cases referred to you for violations of the new procurement law? If so, have any such cases involved corruption? (By corruption I mean bribery or any other action by a Government official intended to gain a benefit for him/herself or other persons by means of his/her office or authority or by overextending such office or authority.)

Please describe such cases and their disposition, including the referring agency and citation of the relevant provisions of the Procurement Law, the Criminal Law, and other laws and their implementing regulations.

2. Have you had any cases involving false declarations under Art. 23 of the new procurement law? What was their disposition?

3. What problems have you encountered in dealing with prosecutions for corruption under the Procurement Law?

4. Are there provisions in the Procurement Law, the Criminal Law, or other laws and their implementing regulations which should be modified or supplemented to make it possible to prosecute cases of corruption in public procurement more successfully?

5. Are you able to prosecute for corruption in public procurements valued at less than 10,000 Lats?

6. Would it be desirable for there to be provisions in the new procurement law specifying sanctions, criminal or administrative, for violations of various provisions of the law?

## **Annex D Questionnaires submitted in advance of meetings (cont.)**

### **5. QUESTIONS FOR EXECUTIVE DIRECTOR OF SIGULDA CITY COUNCIL**

(When I use the word you I mean the municipality of Sigulda.)

How often have you made procurements under the new law on Public Procurement?

What problems have you or your staff encountered in working under this law? Is the new law clear or are there problems in understanding and following it?

Does Sigulda have any written guidance or procedures for making procurements under the new law? Who handles the drafting of procurement documents? Do you have standard documents which are used in all procurements? Who originally drafted such documents?

Who are the supervisors of each procurement?

Do you have enough experienced and trained procurement staff to handle procurements under the new law? How are they trained? Who pays for their training?

How do you prevent and control the occurrence of corruption in procurements under the new law? By ?corruption? I mean bribery or any other action by a Government official intended to gain a benefit for him/herself or other persons by means of his/her office or authority or by overextending such office or authority.

How do procurement commissions operate? When in the procurement process are they appointed? Who appoints them? Who supervises their operations, i.e., is responsible for their actions and can impose administrative sanctions on them if they have violated the procurement law or are involved in corrupt practices? When do they sign the declarations required under Art. 24(3) of the procurement law and what is done with those declarations? Have there been any problems related to such declarations?

What procedures and rules do you follow for procurements whose estimated value is below 10,000Lats?

How do you prevent the splitting of procurements to bring them below the 10,000 Lats threshold?

**Annex D Questionnaires submitted in advance of meetings (cont.)**

**5. QUESTIONS FOR EXECUTIVE DIRECTOR OF SIGULDA CITY COUNCIL (cont.)**

Where and when do you publish announcements of forthcoming procurements and of proposed awards? What information is contained in such announcements?

How do you decide whether to require bid and performance security? Have you had occasion to forfeit such securities?

What is done with bids which are submitted before the time set for opening?

How are bid openings handled?

What is done with the actual contract documents after the contract is signed? Who may see such documents?

Are there matters that should be covered, but are not, or should be covered in a different way in the new law or in other laws and regulations to prevent and control corruption in procurements?

Have there been any instances of corruption in procurements for Sigulda under the new law? Please describe them and tell us how they have been handled.

Are procurements audited? By whom and when?

Has the Procurement Monitoring Bureau ever requested information from Sigulda? Have you had any other dealings with the Procurement Monitoring Bureau or with its Complaints Review Commission or KNAB? Please describe. Have you had any reason to question any of their actions?

## **Annex D Questionnaires submitted in advance of meetings (cont.)**

### **6. INTERVIEW Q-S FOR THE STATE AUDIT OFFICE**

My mandate is to make recommendations to KNAB for better preventing and combating corruption in public procurement.

(When I say you, I usually mean the State Audit Office)

1. How many procurements do you usually audit annually? What do you look at, i.e., compliance with the requirements and procedures of the procurement law, or something else? How do you pick the cases you audit, randomly or utilizing some criteria? If criteria, what are they? Do you audit procurements by the Central Procurement Agency?

2. Have you had cases involving violations of the new procurement law? If so, have any such cases involved corruption? (By corruption I mean bribery or any other action by a Government official intended to gain a benefit for him/herself or other persons by means of his/her office or authority or by overextending such office or authority.)

Please describe such cases and their disposition, including citation of the relevant provisions of the Procurement Law.

3. Have any such cases involved false declarations under Art. 23 of the new procurement law? What was their disposition?

4. What problems have you encountered in dealing with corruption under the Procurement Law?

5. Are there provisions in the Procurement Law, the Criminal Law, or other laws and their implementing regulations which should be modified or supplemented to make it possible to prevent and combat corruption in public procurement more successfully?

6. Have you encountered corruption in public procurements valued at less than 10,000 Lats?

7. Would it be desirable for there to be provisions in the new procurement law specifying sanctions, criminal or administrative, for violations of various provisions of the law?

## **Annex D Questionnaires submitted in advance of meetings (cont.)**

### 7 and 8. QUESTIONS FOR Ministries of Transportation and Agriculture

(When I use the word you, I mean the Ministry)

1. What problems have you encountered in working under this law? Is the new law clear or are there problems in understanding and following it?
2. Does the Ministry have any written guidance or procedures for making procurements under the new law?
3. Who handles the drafting of procurement documents? Do you have standard documents which are used in all procurements? Who originally drafted such documents?
4. Who supervises each procurement?
5. Do you have enough experienced and trained procurement staff to handle procurements under the new law? How are they trained? Who pays for their training?
6. How do you prevent and control the occurrence of corruption in procurements under the new law? By ?corruption? I mean bribery or any other action by a Government official intended to gain a benefit for him/herself or other persons by means of his/her office or authority or by overextending such office or authority.
7. How do procurement commissions operate? When in the procurement process are they appointed? Who appoints them? Are there written procedures for the selection and appointment of their members and for their operations? Who supervises their operations, i.e., is responsible for their actions and can impose administrative sanctions on them if they have violated the procurement law or are involved in corrupt practices? When do they sign the declarations required under Art. 24(3) of the procurement law and what is done with those declarations? Have there been any problems related to such declarations?
8. What procedures and rules do you follow for procurements whose estimated value is below 10,000Lats?
9. How do you prevent the splitting of procurements to bring them below the 10,000 Lats threshold?

Annex D Questionnaires submitted in advance of meetings (cont.)

**Annex D Questionnaires submitted in advance of meetings (cont.)**

7 and 8. QUESTIONS FOR Ministries of Transportation and Agriculture (cont.)

10. Where and when do you publish announcements of forthcoming procurements and of proposed awards? What information is contained in such announcements?

11. How do you decide whether to require bid and performance security? Have you had occasion to forfeit such securities?

12. What is done to safeguard bids which are submitted before the time set for opening?

13. How are bid openings handled?

14. What is done with the actual contract documents after the contract is signed? Who may see such documents?

Annex D Questionnaires submitted in advance of meetings (cont.)

**Annex D Questionnaires submitted in advance of meetings (cont.)**

7 and 8. QUESTIONS FOR Ministries of Transportation and Agriculture (cont.)

15. Are there matters that should be covered, but are not, or should be covered in a different way in the new law or in other laws and regulations to prevent and control corruption in procurements?

16. Have there been any instances of corruption in procurements by the Ministry under the new law? Please describe them and tell us how they have been handled.

17. Are procurements audited? By whom and when?

18. Has the Procurement Monitoring Bureau ever requested information from the Ministry? Have you had any other dealings with the Procurement Monitoring Bureau or with its Complaints Review Commission or KNAB? Please describe. Have you had any reason to question any of their actions?

## **Annex D Questionnaires submitted in advance of meetings (cont.)**

### 9. QUESTIONS FOR State Agency for Electronic Procurement

(When I use the word you I mean this institution)

1. What problems have you encountered in working under the new procurement law? Is the new law clear or are there problems in understanding and following it?
2. Do you have any written guidance or procedures for making procurements under the new law?
3. Who handles the drafting of procurement documents? Do you have standard documents which are used in all procurements? Who originally drafted such documents?
4. Who supervises each procurement?
5. Do you have enough experienced and trained procurement staff to handle procurements under the new law? How are they trained? Who pays for their training?
6. How do you prevent and control the occurrence of corruption in procurements under the new law? By corruption I mean bribery or any other action by a Government official intended to gain a benefit for him/herself or other persons by means of his/her office or authority or by overextending such office or authority.
7. How do procurement commissions operate? When in the procurement process are they appointed? Who appoints them? Are there written procedures for the selection and appointment of their members and for their operations? Who supervises their operations, i.e., is responsible for their actions and can impose sanctions on them or refer them to other bodies for sanctions if they have violated the procurement law or are involved in corrupt practices? When do they sign the declarations required under Art. 24(3) of the procurement law and what is done with those declarations? Have there been any problems related to such declarations?
8. Where and when do you publish announcements of forthcoming procurements and of proposed awards? What information is contained in such announcements?
9. How do you decide whether to require bid and performance security? Have you had occasion to forfeit such securities?
10. What is done to safeguard bids which are submitted before the time set for opening?

**Annex D Questionnaires submitted in advance of meetings (cont.)**

9. QUESTIONS FOR State Agency for Electronic Procurement (cont.)

11. How are bid openings handled?

12. What is done with the actual contract documents after the contract is signed? Who may see such documents?

13. Are there matters that should be covered, but are not, or should be covered in a different way in the new law or in other laws and regulations to prevent and control corruption in procurements?

14. Have there been any instances of corruption in procurements by your organization under the new law? Please describe them and tell us how they have been handled.

15. Are your procurements audited? By whom and when?

16. Has the Procurement Monitoring Bureau ever requested information from you? Have you had any other dealings with the Procurement Monitoring Bureau or with its Complaints Review Commission or KNAB? Please describe. Have you had any reason to question any of their actions?

## **Annex D Questionnaires submitted in advance of meetings (cont.)**

### 10. INTERVIEW Q-S FOR Department of Internal Audit, Ministry of Agriculture

My mandate is to make recommendations to KNAB for better preventing and combating corruption in public procurement.

(When I say you, I usually mean your organization)

1. How many procurements do you usually audit annually? What do you look at, i.e., compliance with the requirements and procedures of the procurement law, or something else? How do you pick the cases you audit, randomly or utilizing some criteria? If criteria, what are they?

2. Have you had cases involving violations of the new procurement law? If so, have any such cases involved corruption? (By corruption I mean bribery or any other action by a Government official intended to gain a benefit for him/herself or other persons by means of his/her office or authority or by overextending such office or authority.)

Please describe such cases and their disposition, including citation of the relevant provisions of the Procurement Law.

3. Have any such cases involved false declarations under Art. 23 of the new procurement law? What was their disposition?

4. What problems have you encountered in dealing with corruption under the Procurement Law?

5. Are there provisions in the Procurement Law, the Criminal Law, or other laws and their implementing regulations which should be modified or supplemented to make it possible to prevent and combat corruption in public procurement more successfully?

6. Have you encountered corruption in public procurements valued at less than 10,000 Lats?

7. Would it be desirable for there to be provisions in the new procurement law specifying sanctions, criminal or administrative, for violations of various provisions of the law?

## **Annex D Questionnaires submitted in advance of meetings (cont.)**

### **11. QUESTIONS FOR Private Suppliers (cont.)**

1. What problems have you encountered in obtaining contracts under the new procurement law? Is the new law clear or are there problems in understanding and following it?
2. Have you encountered instances in Government procurements under the new law where there was insufficient advance notice or difficulty in getting information about the procurements?
3. Do Government procuring entities have experienced and trained procurement staff to handle procurements under the new law? Are they knowledgeable about the new law and procedures thereunder?
4. Do you have procurement staff who understand the new law sufficiently so that you are able to compete satisfactorily for contracts under the new law?
5. Have you encountered public officials seeking bribes or other favors before they would treat you fairly in procurements under the new law? Have you run into instances where public officials have favored other suppliers? What do you do in such cases?
6. Are there matters that should be covered, but are not, or should be covered in a different way in the new law or in other laws and regulations so that there is adequate transparency and availability of information, no unfairness, and no corruption in public procurements?
7. Have you participated in procurements by the Central Procurement Agency or the PHARE Central Finance and Contract Unit?
8. Has the Procurement Monitoring Bureau ever requested information from you? Have you had any dealings with the Complaints Review Commission of the Procurement Monitoring Bureau or KNAB? Please describe. Have you had any reason to question any of their actions?

## Annex D Questionnaires submitted in advance of meetings (cont.)

### 11. QUESTIONS AND ANSWERS of Private Suppliers

#### Retail sales company operating in fuel business

1.	Cik bieži un kādās iepirkumu procedūrās Jūsu uzņēmums ir piedalījies? Tai skaitā tādās, kas rīkotas saskaņā ar Publisko iepirkumu likumu?	2006 gadā vairāk nekā 150	How often and in what kind of procurements you participate? Have you participate in them after new law has taken effect?	More than 150 in 2006.
2.	Kādas problēmas pretendētājam Jūs saskatāt Publisko iepirkumu likumā piedāvājumu sagatavošanā?	Tā kā nav vienotas piedāvājuma sagatavošanas formas, vērtēšanas kritēriji, nav vienotas dokumentu paketes ko pieprasa kvalifikācijai, tad rodas tīri tehniskas noformēšanas problēmas. Piemērs – ja gada laikā notiek apm. 300 iepirkumi, un gandrīz katrs atšķiras ar kaut kādi niansi noformēšanā, prasībās pēc pievienojamiem dokumentiem, savādākiem vērtēšanas kritērijiem, tad ir ļoti problemātiski sagatavot tādu piedāvājumu, kurš atbilstu visām pasūtītāja prasībām, kuras bieži ir ne pārāk loģiskas.	Do you find any difficulties or problems for bidder (preparing bid etc.) because of new law?	Due to lack of the unified bids forms, evaluation criteria, and list of documents what should be added to bid for qualification, technical problems occur when preparing bids. For example – if there are approx. 300 procurements per year, and each of those are just a little different (we are talking about details) of bids design, or necessary documents or evaluation criteria, then it is problematic to submit a bid, which complies with all the requirements of procurer, which are not always quite logic.

3.	Vai Jūsaprāt Publ. iep. likums nav “atvērtāks” korupcijai un negodīgai rīcībai, salīdzinājumā ar veco likumu un MK not.?	Jā, jo iepirkumi ir sadalīti vairākās kategorijās (līdz 1000 LVL, 1000 – 10 000 LVL, 10 000 – 50 000 LVL un no 50 000 LVL līdz...), un katrai kategorijai ir savs publicēšanas veids (pērc no ka gribi, paziņojums kādā rajona avīzītē, vai mistiskā www lapā, vai IUB www lapā). Piemērs – ja LR ir 540 pašvaldības, un 90% pašvaldību ir ar degvielas gada budžetu līdz 10 000 LVL, tad pamēģiniet izsekot Interneta tīmeklī n-www lapas, vai izpētiet n-skaitu vietēja mēroga avīzītes. Līdz ar to mazo iepirkumu jomā ir ļoti iespējama korupcija, vai jau iepriekš zināmu pretendentu uzvara!	How do you find new law in aspect of prevention and fighting corruption in comparison with former law and Cabinet rulings?	Yes, because there are different categories of procurements now (1 LVL -1000LVL, 1000LVL-10000LVL, 10000LVL –50000LVL and more than LVL 50000), and publishing requirements for of the categories are different (buy what you want on your choice, announcement in a local paper, or mystic webpage, or PMB webpage. For example – there are approx. 450 local municipalities in Latvia, 90 % of them budget for fuel do not exceed LVL 10000, it is very hard to check all small papers and websites to find announcements. Therefore there is a huge possibility of corruption in small procurements and the winning bidder is known before.
4.	Vai iepirkumu izsludināšana internetā ir pietiekama, vai nav nepieciešami vēl citi veidi?	Ir pietiekama, bet būtu nepieciešama kvalitatīvāka www lapa.	Is there enough if procurement’s announcements are published in internet only? Do you need another ways for that?	Yes it is, but webpage of PMB should be in better quality.
	Vai Jūs saskatāt problēmas piedāvājumu atvēršanas procesā, cenu nolasišanā? Vai pirms atvēršanas, šajā procesā vai tūlīt pēc tam ir iespējamās manipulācijas ar piedāvājumiem?	Neesmu novērojis.	Do you find any problems in opening of bids and reading aloud prices? Is it possible to manipulate with bids before, during or after opening of bids?	No, I’ve not observed.

6.	Vai Jūs pievēršat uzmanību komisijas sastāvam un ekspertiem, kā arī viņu iespējamai saistībai ar kādu pretendentu un interešu konfliktiem?	Degvielas konkursos ir ļoti grūti izvērtēt konkursu/cenu aptauju komisijas sastāvu, jo to praktiski var uzzināt tikai piedāvājumu atvēršanas laikā. Kas attiecas uz manipulēšanu ar piedāvājumu paketēm pēc cenu nosaukšanas, tad tas vispār nav kontrolējams process, un viss ir atkarīgs no konkursa/cenu aptaujas komisijas vēlmēs ievērot likumību un interpretēt likumdošanas normas.	Do you pay attention to stuff of commission and experts and their possible relation with some bidder and conflict of interest?	In the procurements of fuel it is very hard to value the members of commission, because you get to know them only in opening of bids. Regarding to manipulations with bids after announcing of prices, that is a process completely out of control and everything depends only on integrity, and following the law and interpretation of the law.
7.	Kāds ir Jūsu viedoklis par piedāvājuma nodrošinājumu? Vai tas nevar tiks izmantots pretendentu loka samazināšanai?	Atkarībā no klienta darba specifikas (piem. ātrā palīdzība, policija utt.) būtu nepieciešams piedāvājuma nodrošinājums, jo tas disciplinē piegādātāju, bet tanī pašā laikā nodrošinājums nevarētu būt nemainīgs lielums uz visu līguma laiku, jo samazinoties līgumsaistību summai (LVL) būt jāsamazinās arī piedāvājuma nodrošinājumam.	What's your mind about security of bids? Would it be used for decreasing amount of bids?	It depends on field of procurer. (For example: emergency services, police) do need security of bid. That is a way for discipline of suppliers. At the same time security shouldn't be immutable amount, but should deplete together with the sum of contract.
8.	Vai Jūsu piedāvājumus ir noraidīts gadījumos, kad tas ir lētākais? Un kāds tad ir noraidīšanas pamats?	Nē.	Has been your bid rejected in procurements, when that was the cheapest? If yes, what grounds were used for rejection?	No, I've not faced such situations.

9.	Vai Jums ir bijušas grūtības (neizsniedz, rada birokrātiskus šķēršļus u.tml.) saņemt iepirkuma procedūras dokumentus (protokols, informācija par līgumu)?	Jā. Ir klienti, kuri kategoriski atsakās sūtīt nolikumus izmantojot elektronisko vidi (e-pasts, www lapas), un obligāti ir jābrauc pakaļ nolikuma papīra versijai, kas savukārt ir visneērtākais veids piedāvājuma sagatavošanai, jo liela daļa informācijas, kas jāsniedz piedāvājumā ir jāsniedz tabulu izskatā, kas savukārt nozīmē, ka pašam ir jāgatavo n-tabulas-tādējādi tiek nevajadzīgi zaudēts laiks ,palielinās iespēja kļūdīties, pasūtītājs balstoties uz to var vairāk veikt pretendentu sijāšanu.	Have you met difficulties (artificial obstacles, bureaucracy etc.) in receiving procurement documentation (protocols, information of contract)?	Yes, there are such situations. There are clients (procurers) who strictly decline to send the rules of procedure via e-mail or to publish them on a webpage. Then bidder has to go to the place of procurer to get the paper version. That is very inconvenient way for getting rules and preparing bid because most of information in the bid consist of standardized tables, which you have to make yourself in spite they are already made in the rules. It takes a lot of time, there is a possibility of mistake. And that makes chance for throwing out the bids.
10.	Vai uzskatāt, ka atklātība ir pietiekama? Vai līgumiem un piedāvājumiem būtu jābūt publiski pieejamiem korupcijas samazināšanas nolūkos?	Atklātība nav pietiekama – jo viņa nav pietiekami standartizēta, kā agrākos punktos jau minēts. Nē, nav jābūt pieejamiem, jo tam nav jēgas, ka ieraugot kādu līguma punktu konkurenta līgumā, kurš tev liekas nepareizs, tu nevari vairs neko izmainīt, un tiesā arī nav jēgas sniegt prasību, jo pēc pieredzes uz Administratīvā tiesā iesniegtās prasības apmierināšanu/izskatīšanu jagaida 1,5 gadi!!!un tas automātiski aptur uzņēmēju vēlmi iet uz šo procesu.	Is the access of information in procurement enough free? Should bids and contract be public accessible?	The transparency is not enough – it is not sufficiently standardized, as said above. Bids should not be available to public. If you find an article in competitor's contract, which you find incorrect – you can't change it. It does not make to complaint in the court. Usually the examination is planned after one and a half year. It kills the wish of suing automatically.

11.	Kāds ir Jūsu viedoklis par iepirkumiem līdz Ls10000 un kāda ir Jūsu pieredze šajos dažos mēnešos šajā aspektā?	Process un būtība ir labākā gadījumā smieklīga. Paši ieejat <a href="http://www.iub.fm.gov.lv">www.iub.fm.gov.lv</a> , un varat mēģināt atrast jūs interesējošo iepirkumu vairākos desmitos valsts/pašvaldību iestāžu/organizāciju utt. www lapās! Absolūti nekontrolējams un nekvalitatīvs process, PAVER IESPĒJU NEGODĪGAI UN IEPRIEKŠ IZPLANOTAI RĪCĪBAI!	What's your point of view of regulation of procurements with amounts LVL 1000-LVL 10000	Procedures and the meaning are ridiculous at the very best. You can find in <a href="http://www.iub.gov.lv">www.iub.gov.lv</a> and try to find the procurement you are interested in dozens of webpage belonging to municipal and governmental bodies. COMPLETELEY UNCONTROLLED AND LOW QUALITY PROCCES. IT PTOVIDES POSSIBILITIES FOR UNFAIR CONDUCT AND ILLEGAL PRELIMINARY AGREEMENTS.
12.	Vai Jūs esat vērsušies IUB ar sūdzību par kādu iepirkuma procedūru. Kādi ir rezultāti?	Esam, pēdējā gadalaikā apm. ~ 6:1 sūdzību mūsu labā!(un zaudētā lieta ir pārsūdzēta administratīvā tiesā!)	Have you ever submit a complaint to the PMB? What consequences followed?	Yes we have. Apr. 6 / 1 we've won. The only lost is appealed in Administrative court.
13.	Vai esat pārsūdzējuši IUB sūdzību izskatīšanas komisijas lēmumus? Kādi rezultāti?	Esam pārsūdzējuši un gaidām 2007.gada jūniju kad nolikta lietas izskatīšana lai gan tas nenozīmē, ka tieši tad tas arī tā notiks.	Have you ever appealed PMB Complaints Review Commission decisions? What consequences followed?	Yes we have appealed one case (one decision of PMB commission), and we are waiting for 2007, but it's not said that hearing will go on then, may be later.
15.	Vai esat saskāries ar īpašu attieksmi (sliktu attieksmi) no pasūtītāja puses, ja par tā rīcību esat sūdzējies iepriekš?	Jā, tie ir bijuši pāris lieli darījumi nozīmīgāko ministriju ietvaros.	Have you ever met special attitude (bad attitude) from procurer, after you have complaint against him?	Yes, within the framework of large procurement contracts in significant ministries.

16.	Vai Jūs pievēršat uzmanību sūdzību izskatīšanas komisijas sastāvam un ekspertiem, kā arī viņu iespējamai saistībai ar kādu pretendentu, pasūtītāju un interešu konfliktiem?	Pievērst varam, bet ja arī kāds no komisijas sastāva ir izrādījis nepatiku pret mūsu uzņēmumu (kas arī ir bijis), vai arī kāds no komisijas pieaicinātajiem ekspertiem pauž klaju nepatiku pret mūsu uzņēmumu, teorētiski jau var prasīt nomaiņu, bet konkrētais darījums jau būs izskatīts tik un tā.	Do you pay attention to stuff of PMB Complaints Review commission and experts and their possible relation with some bidder, procurer and conflict of interest?	We can pay attention. But even in case, if any member of commission or expert expresses displeasure to our company (what we have really faced), theoretically we can ask for substitution of that person, but the case will be examined anyhow.
17.	Vai sūdzības netiek izmantotas kā negodīgas konkurences cīņas metode?	Domāju , ka tieši pretēji izņēmumus kādus jau var atrast visur...	Are complaints used as a weapon in unfair competition?	I think it's to the contrary. But there are exemptions everywhere.

18.	<p>Vai Jums ir bijušas “darīšanas” ar IUB? Lūdzu aprakstiet. Kāds ir jūsu viedoklis par IUB? Vai Jūs apmierina IUB darbība kopumā? Kādas problēmas saskatāt? Vai būtu nepieciešams kādas fundamentālas vai sīkas izmaiņas? Kāds Jūsu viedoklis par sūdzību izskatīšanas komisijas statusu (padotība, neatkarība)? Un tās lēmumiem (likuma 69.panta 2.daļas aspektā) vai ir problēmas apstākļi, ka IUB ir padots Finanšu ministrijai? Lūdzu izklāstiet.</p>	<p>Mūsu uzņēmumu iekšienē arī veidojas līdzīgs „iepirkumu birojs” ar ļoti līdzīgu mandātu visiem iepirkumiem. Principā – SOX noteikumu rezultātā. IUB ziņā nesaredzam, ka būtu atbilstoša profesionāļu komanda, kas var, piemēram, vienlīdz profesionāli izskatīt sūdzības par medikamentu iepirkumiem un bruņoto spēku iepirkumiem! Viņi arī skaitās eksperti degvielas jomā, un lauksaimniecības kultūru (dārzeņi, augļi) piegādē. Rada izbrīnu, ka datortehnikas iepirkumu sūdzības, kas ir visbiežāk sastopami IUB www lapā, ir tik „skaidras” un viss šis sūdzību izskatīšanas karnevāls notiek ļoti nopietni, ka 😊</p> <p>Sākotnēji uzsākot šos procesus mūsu nozarē, šī situācija izskatījās tiešām profesionāla un godīga no IUB puses, līdz izskatīšanai nokļuva lielāku apjomu darījuma lietas; rezultātā mēs skatāmies uz IUB profesionalitāti, objektivitāti un neatkarību ar lielu skepsi. Varbūt mūsu uzņēmums bija uzvarējis pārāk daudz tenderus, kā rezultātā vajadzēja mūsu dalību piebremzēt; grūti spriest.</p> <p>Kopsavilkumā: IUB nav vēl pierādījis savu profesionalitāti visās iepirkumu sfērās un patiesa objektivitāte vērtējumos ir zem jautājuma zīmes.</p>	<p>Have you had any dealings with the PMB? Please describe. What do you think of the PMB? Are there problems because the PMB is under the Ministry of Finance? Please describe. Are you satisfied with PMB generally? Do you find any problems? Do you have suggestions of reforms necessary (fundamental or slight) What do you think about status of PMB Complaints Review commission (subordination, independence??). And its judgments (see Art. 69 (2) of the Law.</p>	<p>There is a kind of “procurement bureau” inside our company with very similar mandate (competency). It is build up as result of SOX rules. PMB is not enough professional team who can examine procurements of medicine or military goods with equal competency. They count experts in field of fuel, agricultural produce (fruits, vegetables).</p> <p>It is amazing how clear are most of complaints related to computer’s procurements, which are very popular. And the carnival (show) of examination of complaints is going on so seriously that.... ☺. When we just started our activities the action of PMB seemed to be very honest and professional, until the moment complaints of huge procurements appeared on the agenda. As the result of this we take a rather skeptical look when talking about PMB’s professionalism, integrity, independence and impartiality. Probably we’ve won to much procurements, so they have to slow down us, hard to say.</p> <p>Resume: PMB has not proved professionalism in all fields of procurement, and there is a question of real impartiality in examination of complaints.</p>
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19.	Kādu Jūs saskatāt KNAB lomu iepirkumu sfērā? Vai šai iestādei būtu vairāk jāiesaistās šajā sfērā?	Nekādu lomu nesaskatu, tas tikai palielinās iespēju, ka gatavojot piedāvājumu, tiks iekļautas tādas piedāvājuma sagatavošanas normas, ka tās jau varētu būt grūti sagatavot. Piemērs – pirms piedāvājuma iesniegšanas visi piedāvājumi/to kopijas jānes uz KNAB apstiprināšanai/kopēšanai, lai novērstu iespējas manipulēt ar piedāvājumu saturu..... Izejot no nosaukuma un pamatfunkcijām noteikti saskatu šās iestādes lomu. Par iepriekšēju apstiprināšanu, domāju ka tas nav reāli un iespējami.	What do you find role of KNAB in the field of procurement? Do they act enough, or they have to be more active?	I don't see such a role; It could increase the chance that some rules for preparing bids will be made more difficult. For example – copies of all bids are preliminary submitted to KNAB before submission to procurer in order to avoid manipulations with bids.  Having a look to the title of the institution – there is the KNAB role in procurement field obviously. I don't think that preliminary submission of bids to KNAB is real and possible.
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### IT company

1.	Cik bieži un kādās iepirkumu procedūrās Jūsu uzņēmums ir piedalījies? Tai skaitā tādās, kas rīkotas saskaņā ar Publisko iepirkumu likumu?	Piedalāmies apm. 75 konkursos un vairāk kā 200 cenu aptaujās gada laikā. Apgrozījums valsts iepirkumos sas6tāda 1,8 mlj. latu.	How often and in what kind of procurements you participate? Have you participate in them after new law has taken effect?	We participate in aprox. 75 competitions and aprox. 200 price quotations per year. Our turnover of public procurement is LVL 1,8 million per year.
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2.	Kādas problēmas pretendētājam Jūs saskatāt Publisko iepirkumu likumā piedāvājumu sagatavošanā?	Būtisku problēmu un arī cita veida jaunumu nav. Vienīgi atsevišķi pasūtītāji šobrīd cenu aptauju organizē tik pat sarežģīti, kā konkursu agrāk. Tiek pieprasīti daudz dokumenti, kas neatbilst pašai vienkāršotās procedūras būtībai.	Do you find any difficulties or problems for bidder (preparing bid etc.) because of new law?	There are no fundamental changes, therefore no special new problems. I would accent – some procurers performing price quotations require very many different documents to be added to bid, that there is no difference between competition and price quotation. And the principle and aim of simplified procedure is lost.
3.	Vai Jūsaprāt Publ. iep. likums nav “atvērtāks” korupcijai un negodīgai rīcībai, salīdzinājumā ar veco likumu un MK not.?	Konkursos un cenu aptaujās korupcija nav kļuvusi lielāka. Vienīgi iepirkumos no Ls 1000-ls 10000 ir problemātiski. Nav regulējuma, var rīkoties diezgan slēpti. (skat atbildi uz 8.jaut)	How do you find new law in aspect of prevention and fighting corruption in comparison with former law and Cabinet rulings?	I wouldn't say that about competitions and price quotations- there is transparency, but procurements from LVL 1000- 10000 situations are different – no clear regulations, less transparency, and more chances for corruption. (See answer to question 8).
4.	Vai iepirkumu izsludināšana internetā ir pietiekama, vai nav nepieciešami vēl citi veidi?	Jā pilnīgi pietiekama. Es neatceros, kad pēdējo reizi lasīju “Latvijas vēstnesi”. Domāju, ka internets jau ir pietiekami izplatīts, lai nevienam no potenciālajiem pretendentiem nebūtu problēmas iegūt informāciju. Attiecībā uz iepirkumiem no Ls 1000-10000 Ērtāk būtu, ja visi pasūtītāji linkus (saites) uz savu mājas palu iepirkumu sadaļām apvienotu piemēram <a href="http://www.iub.gov.lv">www.iub.gov.lv</a>	Is there enough if procurement's announcements are published in internet only? Do you need another ways for that?	Yes absolutely. I don't remember when I read “Latvijas Vestnesis” (Latvia Herald”) last time. I think internet is accessible enough, so every bidder can get information of procurements. Regarding to procurements form 1 VL 1000-LVL 10000 it would be easier for bidders if all links to each procurer home page section of procurements would be published together for example on <a href="http://www.iub.gov.lv">www.iub.gov.lv</a>

	<p>Vai Jūs saskatāt problēmas piedāvājumu atvēršanas procesā, cenu nolasišanā? Vai pirms atvēršanas, šajā procesā vai tūlīt pēc tam ir iespējamās manipulācijas ar piedāvājumiem?</p>	<p>Jā, problēmas ir cenu aptaujās un iepirkumos zem Ls 10000, tur atvēršanas nenotiek atklātā sēdē. Līdz ar to ir iespējas manipulēt ar piedāvājumiem.</p> <p>Otra problēma – konkursos nolasa tikai tāmju kopsummas, nevis katru pozīciju. No vienas puses pilna finansu piedāvājumu nolasišana veicinātu caurspīdību, bet no otras – tas varētu būt komercnoslēpuma aizskārums</p>	<p>Do you find any problems in opening of bids and reading aloud prices? Is it possible to manipulate with bids before, during or after opening of bids?</p>	<p>Yes – there are problem – price quotation and procurements below LVL 10000 opening is not happening in open meeting. So it opens scope for manipulations with bids.</p> <p>Another question – in competitions they read just total sum – on the one hand reading through all financial bids makes the procurement mere transparent, but on another – that would be breach of trade secret.</p>
6.	<p>Vai Jūs pievēršat uzmanību komisijas sastāvam un ekspertiem, kā arī viņu iespējamai saistībai ar kādu pretendentu un interešu konfliktiem?</p>	<p>Jā pievēršam. Mums bija viena lieta IUB. Tur mūsaprāt interešu konflikts bija iepirkumu komisijas pieaicinātajam ekspertam. Viņš bija bijušais valdes priekšsēdētājs uzņēmumā ar kuru uz konkursa norises laiku bija apvienojies uzvarējušais pretendents. IUB jautājumam piegāja formāli – apliecinājumu eksperts ir parakstījis un formāli tādējādi tas nav ieinteresēts. (tas notika vēl bijušā likuma darbības laikā)</p>	<p>Do you pay attention to stuff of commission and experts and their possible relation with some bidder and conflict of interest?</p>	<p>Yes we pay attention. We have one complaint in PMB, where one of points was: expert of procurements commission was former head of the board of company, which during merging business came in to company which won the competition. PMB look on this very formally – expert had signed statement of disinterest – and that enough, so they didn't find violation on this point. ( that happened when former law was in force)</p>

7.	Kāds ir Jūsu viedoklis par piedāvājuma nodrošinājumu? Vai tas nevar tiks izmantots pretendenta loka samazināšanai?	Ar to viss ir kārtībā. Ir noteiktas limits 55, kas ir pilnīgi atbilstošs. Ar piedāvājumu nodrošinājumu pat varētu tikt mazināta korupcija, jo t.s. pirmais uzvarētās nevar tik vienkārši atteikties no līguma slēgšanas, jo tiks zaudēta nodrošinājuma summa. Tāpat tas mazina acīmredzami neatbilstošu piedāvājumu saņemšanas iespēju.	What's your mind about security of bids? Would it be used for decreasing amount of bids?	That is all right. I don't find problems. There is limit 5 %, what is normal. That could prevent corruption – in the way that first winner would not resign of contract without losing security of bids. That protects procurer of obviously irrelevant bids.
8.	Vai Jūsu piedāvājumus ir noraidīts gadījumos, kad tas ir lētākais? Un kāds tad ir noraidīšanas pamats?	Protams tiek noraidīti piedāvājumi, kas ir lētākie. Pamatojumi visdažādākie. Tad, kad tie ir īpaši šaubīgi, tad rakstam sūdzības IUB. Atsevišķos gadījumos noraidīšana ir apbrīnojami bezkaunīga. Ir gadījumi, kad var saprasta, ka vienu piedāvājumu izskata pedantiski, pārbaudot katru lapu un teikumu, bet citam piedāvājumam “iet pāri” pavirši, “palaižot garām” vai pieverot acis uz trūkumiem un neatbilstībām. Vienādi pārkāpumi piedāvājumos – pasūtītāja atšķirīga attieksme	Has been your bid rejected in procurements, when that was the cheapest? If yes, what grounds were used for rejection?	Of course our bid is denied several times, when it is the cheapest. Grounds are very different in each situation. Some times grounds are very doubtful. Then we submit a complaint to PMB. Some times impudence of procurers is marvelous. Some times we see, that one bid is valuated with due diligence – page by page, word by word, seeking insignificant disparity with regulations, the same time another is valuated slapdash, blinking disparities. Equal violations in the bid – different attitude from procurer.
9.	Vai Jums ir bijušas grūtības (neizsniedz, rada birokrātiskus šķēršļus u.tml.) saņemt iepirkuma procedūras dokumentus (protokols, informācija par līgumu)?	Varētu teikt, ka šāda veida grūtību nav.. jautājums ir par tehnisko piedāvājumu un cenu (pilnu tāmju) publicēšanu. Laikam jau tomēr nevajadzētu. Līgums gan varētu būt publiski pieejams. Turklāt kopā ar visiem izpildes dokumentiem, un	Have you met difficulties (artificial obstacles, bureaucracy etc.) in receiving procurement documentation (protocols, information of contract)?	I'd say there are no problems. Technical parts and full financial bid – I don't think those documents should be public accessible. But the contract would be – including documents of performance (acts, bills, delivery notes) and attachments – supplements to contract

10.	Vai uzskatāt, ka atklātība ir pietiekama? Vai līgumiem un piedāvājumiem būtu jābūt publiski pieejamiem korupcijas samazināšanas nolūkos?	papildus vienošanās, kas tiek noslēgtas pēc līguma parakstīšanas.	Is the access of information in procurement enough free? Should bids and contract be public accessible?	would be freely accessible as well.
11.	Kāds ir Jūsu viedoklis par iepirkumiem līdz Ls10000 un kāda ir Jūsu pieredze šajos dažos mēnešos šajā aspektā?	Skatīt pēdējo teik. atbildē uz 4. jaut. Dažkārt šajos iepirkumos ir problēmas iegūt iepirkuma dokumentāciju, tātad tiek kavēta iespēja piedalīties.	What's your point of view of regulation of procurements with amounts LVL 1000-LVL 10000	See last question in answer to question 4. there are some events, when procurer unwillingly deliver documentation necessary preparing of bid for participation.
12.	Vai Jūs esat vērsušies IUB ar sūdzību par kādu iepirkuma procedūru. Kādi ir rezultāti?	Jā diezgan daudz sūdzamies. Šogad apmēram 10 sūdzības. Gadās pat, ka vienā konkursā ir divas. 80 % sūdzību uzvaram. Mēs sūdzamies, tikai, ja ir iekšēja sajūta un arī juridisks pamats mūsu taisnībai. Slikta IUB sūdzību izskatīšanas prakse – lēmumā netiek atspoguļoti tie aspekti, viedokļi vai informācija, kas IUB lēmuma nolemjošajai daļai nav vēlams.	Have you ever submit a complaint to the PMB? What consequences followed?	Yes we complaint a lot. This year appr. 10 complaints. There are 2 complains on one competitions. 80 % we win. We don't complaint if we don't find our justice. Very bad tendency of complaints hearing commission – they do not include in decision opinions, information or any aspects, which are in contradiction or are not desirable for the decision.
13.	Vai esat pārsūdzējuši IUB sūdzību izskatīšanas komisijas lēmumus? Kādi rezultāti?	Pārsūdzējuši neesam. Bet nav nekādas jēgas, jo līgums tiek noslēgts izpildīts un viss. Zinām, ka citi ir to darījuši – bet tad arī tiesnesis uzprasīja – kāda jēga?	Have you ever appealed PMB Complaints Review Commission decisions? What consequences followed?	No we've not, because it's nonsensical - contract is signed, performed and that's all. I've information other companies have done that, but then judge asked – Why, what is the reason?

15.	Vai esat saskāries ar īpašu attieksmi (sliktu attieksmi) no pasūtītāja puses, ja par tā rīcību esat sūdzējies iepriekš?	Mēs ar šādu attieksmi neesam sastapušies. Bet pret citām kompānijām ir šāda attieksme ir pieredzēta. Skatīt atbildi uz 8. jaut.	Have you ever met special attitude (bad attitude) from procurer, after you have complaint against him?	We've not met such an attitude, but we've heard. In details – see answer to question 8.
16.	Vai Jūs pievēršat uzmanību sūdzību izskatīšanas komisijas sastāvam un ekspertiem, kā arī viņu iespējamai saistībai ar kādu pretendentu, pasūtītāju un interešu konfliktiem?	Jā – viens gadījums ir bijis. Kad sūdzējāmie par kādu konkursu, un sūdzību izskatīšanas komisijas eksperts bija o uzņēmuma kas kādreiz bija saistīts ar uzvarētāju. Šo jautājumu pacēlām sūdzības izskatīšanas sēdē, bet IUB komisija mūsu piezīmi pat neatzīmēja savā lēmumā. (skatīt atbildi uz 12.jautājumu Mutiski atsaucās uz formālu iemeslu – likumā noteiktais laiks kopš saistība ir beigusies bija pagājis.	Do you pay attention to stuff of PMB Complaints Review commission and experts and their possible relation with some bidder, procurer and conflict of interest?	Yes there was one case- when we found expert was principal of company which in the recent past was related with winner's company. We draw attention on that during hearing of our complaint, but commission didn't include this aspect in the decision (see answer to question 12. Orally commission argued that formally the period of time being related has gone and expert is disinterest.

17.	Vai sūdzības netiek izmantotas kā negodīgas konkurences cīņas metode?	Jā, tā mēdz notikt. Šādā veidā tiek ievērojami kavēta procedūras norise, līguma noslēgšana, līdz ar to arī izpilde. Tas sarežģī attiecības starp piegādātāju un pasūtītāju, kā arī starp piegādātāju un tā partneriem (ražotājiem, apakšuzņēmējiem). Vēl viens veids, kā negodīgi izmantot tiesības sūdzēties ir – iesniegt pilnīgi nepamatotu sūdzību, un to atsaukt tikai dažas dienas pirms tās izskatīšanas. Pret to varētu ieviest efektīvu līdzekli – sūdzības iesniegšanai noteikt kādu drošības naudu.	Are complaints used as a weapon in unfair competition?	Probably that would be right. The complaint delays procurement procedure and signing of contract, and therefore complicates relations of procurer and bidder, bidder and its suppliers, subcontractors. There are a lot of cases, when completely unproved complaint is submitted and just some days before hearing of it complaint is cancelled (called back). May be good remedy against that would be some security for submitting complaint
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18.	<p>Vai Jums ir bijušas “darīšanas” ar IUB? Lūdzu aprakstiet. Kāds ir jūsu viedoklis par IUB? Vai Jūs apmierina IUB darbība kopumā? Kādas problēmas saskatāt? Vai būtu nepieciešams kādas fundamentālas vai sīkas izmaiņas? Kāds Jūsu viedoklis par sūdzību izskatīšanas komisijas statusu (padotība, neatkarība)? Un tās lēmumiem (likuma 69.panta 2.daļas aspektā) vai ir problēmas apstākļi, ka IUB ir padots Finanšu ministrijai? Lūdzu izklāstiet.</p>	<p>Kā jau izriet no iepriekšējām atbildēm, darīšanas ar IUB ir bijušas. Viņiem ir cilvēkresursu trūkums, sūdzību ir daudz, sūdzību izskatīšanas komisijas locekļiem ir jāspēj iedziļināties ļoti dažādos iepirkumos, kas ir visai sarežģīti. Kopumā IUB strādā labi, un pēdējā laikā darbs un sūdzību izskatīšanas kvalitāte uzlabojas. Izmaiņas, ko varētu vēlēties – IUB jābūt citā statusā, ne Finanšu ministrijas padotībā, jo IUB ir vienā statusā ar visām pārējām Finanšu ministrijas iestādēm – VID, Valsts kase, un citas. Tātad viens ministrs un pārējie augstākās ministrijas amatpersonas uzrauga gan pašus iepirkumus, gan sūdzību izskatīšanu par tiem. Tādējādi sūdzību izskatīšana un lēmumi par pašas ministrijas, padotības iestāžu iepirkumiem var tiks ietekmēta no augšas. Iespējams IUB varētu būt iekļauts KNAB sastāvā. Vai arī pastāvēt kā neatkarīga institūcija</p>	<p>Have you had any dealings with the PMB? Please describe. What do you think of the PMB? Are there problems because the PMB is under the Ministry of Finance? Please describe. Are you satisfied with PMB generally? Do you find any problems? Do you have suggestions of reforms necessary (fundamental or slight) What do you think about status of PMB Complaints Review commission (subordination, independence??). And its judgments (see Art. 69 (2) of the Law.</p>	<p>As you can infer from answers to questions above. We have dealings with PMB. Their problems are lack of human resources. There are a lot of complaints; members of commission have to look at each procurement before hearing, different fields of procurement. It’s quite difficult. But generally work of PMB becomes better, specially recently. Reforms needed – probably it’s not correct that PMB is dependant of Ministry of Finance. Because of this dependence PMB has the equal status with State Revenue Service (probably one of the “richest” procurers), State Treasury and others. So the same minister and other higher officials of Ministry supervise procurements and reviewing of complaints. That’s not good. The possibility of influence is very possible. Probably PMB would be included in KNAB or it would be independent institution.</p>
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19.	Kādu Jūs saskatāt KNAB lomu iepirkumu sfērā? Vai šai iestādei būtu vairāk jāiesaistās šajā sfērā?	KNAB, manuprāt, iepirkumu sfērā nedara neko. Iespējams, KNAB pārstāvis varētu būt iekļauts sūdzību izskatīšanas komisijās. KNAB skatījums uz šo sfēru ir pārāk šaurs, vajadzētu iesaistīties vairāk un aktīvāk.	What do you find role of KNAB in the field of procurement? Do they act enough, or they have to be more active?	KNAB is doing almost nothing in the field of procurements. Probably official of KNAB would be included in PMB Complaints reviewing commissions. KNAB view and action in the field of procurement is too narrow, they have to be more active.
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<b>Papildus viedokļi, domas un priekšlikumi</b>	<b>Other point of view, suggestions, standpoints</b>
Ja iepirkuma apjoms ir liels (piemēram Ls 500 000) iepirkumu komisijā varētu iekļaut dažādu institūciju pārstāvjus, iespējas arī no KNAB. Tādējādi sarežģījot norunas, draugu būšanas.	If the amount of procurement is financial voluminous (probably, more than LVL 500 000), it would be desirable to include in procurement commission officials from different institutions, probably KNAB as well. That would be way to prevent collusions, familiarity.
Iepirkumu dokumentu izstrādes nošķiršanu no piedāvājumu vērtēšanas (to veic dažādas personas) var viegli apiet.	Segregation of process of drafting procurement documents and valuation (meaning – that do different persons) of bids would be bypassed easily.
Iepirkumu dokumentus pirms izsludināšanas pie lieliem apjomiem varētu dot vērtēt un sniegt atzinumu IUB vai KNAB.	If the amount of procurement is financial voluminous, the regulation would be examined by KNAB or PMB before announcing of procurement.
IUB varētu izstrādāt vienotas prasības pretendentu atlasei	PMB would draft recommendations for regulation of selection of bidders (formal stage)
Ir tādas procedūras, kurās iepirkuma priekšmetā tiek nepamatoti tiek apvienotas dažādas preces un pakalpojumi, tādējādi ievērojami samazinot pretendentu loku un līdz ar to samazinot konkurenci.	There are procurements where object of procurement ( is made so wide, there are compiled different goods, services, that circle of bidders is narrowed, and competition is imperfect.
Latvijā pastāv problēma, ka pasūtītāji nosaka ļoti striktas prasības konkursa atlases un piedāvājumu ievērtēšana, un tās arī piemēro. Toties līgumi mēdz būt ļoti maigi un pasūtītājs saskaras ar grūtībām, kad uzvarējušais pretendents nepilda savas saistības. Rietumeiropā pieeja ir citādāka – viegli ir iegūt tiesības noslēgt līgumu, taču tā noteikumu izpilde jāveic pedantiski , pretējā gadījumā var ciest nopietnus zaudējumus līgumsodu un sabojātas reputācijas dēļ.	Latvia's problem is that procurers make very formal, strict regulations of procurement competition, but pay less attention for drafting convenient contract. And after signing they have problems with bad performance of it . In the West Europe procurers act different – you can easy get a contract, but you have to meet your obligations very strictly otherwise you suffer heavily under penalties of contract and reputation

**Annex D Questionnaires submitted in advance of meetings (cont.)**

One of top 5 biggest construction companies in Latvia, annual turnover in 2005 was 17 milj. lats, 400 people employed, including 40 certified experts

	Cik bieži un kādās iepirkumu procedūrās Jūsu uzņēmums ir piedalījies? Tai skaitā tādās, kas rīkotas saskaņā ar Publisko iepirkumu likumu?	How often and in what kind of procurements you participate? Have you participate in them after new law has taken effect?	Yes, during the last two years we have participated in several state and municipal tenders.
2.	Kādas problēmas pretendētājam Jūs saskatāt Publisko iepirkumu likumā piedāvājumu sagatavošanā?	Do you find any difficulties or problems for bidder (preparing bid etc.) because of new law?	We do not see major problems except for procedure calculating influence of inflation.
3.	Vai Jūsaprāt Publ. iep. likums nav "atvērtāks" korupcijai un negodīgai rīcībai, salīdzinājumā ar veco likumu un MK not.?	How do you find new law in aspect of prevention and fighting corruption in comparison with former law and Cabinet rulings?	We have not analyzed that as we do not really appreciate corruptive deals.
4.	Vai iepirkumu izsludināšana internetā ir pietiekama, vai nav nepieciešami vēl citi veidi?	Is there enough if procurement's announcements are published in internet only? Do you need another ways for that?	Yes, we check data basis of competitions on regular basis.

	Vai Jūs saskatāt problēmas piedāvājumu atvēršanas procesā, cenu nolaišanās? Vai pirms atvēršanas, šajā procesā vai tūlīt pēc tam ir iespējamās manipulācijas ar piedāvājumiem?	Do you find any problems in opening of bids and reading aloud prices? Is it possible to manipulate with bids before, during or after opening of bids?	Perhaps, bidders should draw lots for sequence of bid opening. This would avoid manipulation with „corruptive” proposals. However, there are several people in the commission and it is doubtful that all of them have agreed to whom to award contract. Thus simply transparency would exclude any manipulations.
6.	Vai Jūs pievēršat uzmanību komisijas sastāvam un ekspertiem, kā arī viņu iespējamai saistībai ar kādu pretendentu un interešu konfliktiem?	Do you pay attention to stuff of commission and experts and their possible relation with some bidder and conflict of interest?	We, of course, pay attention to the fact that there has been earlier information concerning unfairness. Otherwise, we assess our capacity to implement the project and we simply offer our services if we are interested paying not much attention to people working in commissions.
7.	Kāds ir Jūsu viedoklis par piedāvājuma nodrošinājumu? Vai tas nevar tiks izmantots pretendentu loka samazināšanai?	What’s your mind about security of bids? Would it be used for decreasing amount of bids?	Yes, it narrows down number of bidders but it is also logical that big projects can be implemented by big companies while small companies have no experience etc. Perhaps, a bid security should be established proportionally to volume/size of object which is not to be manipulated.
8.	Vai Jūsu piedāvājumus ir noraidīts gadījumos, kad tas ir lētākais? Un kāds tad ir noraidīšanas pamats?	Has been your bid rejected in procurements, when that was the cheapest? If yes, what grounds were used for rejection?	Our bid was once rejected due to cancellation of the project.
9.	Vai Jums ir bijušas grūtības (neizsniedz, rada birokrātiskus šķēršļus u.tml.) saņemt iepirkuma procedūras dokumentus (protokols, informācija par līgumu)?	Have you met difficulties (artificial obstacles, bureaucracy etc.) in receiving procurement documentation (protocols, information of contract)?	No

10.	Vai uzskatāt, ka atklātība ir pietiekama? Vai līgumiem un piedāvājumiem būtu jābūt publiski pieejamiem korupcijas samazināšanas nolūkos?	Is the access of information in procurement enough free? Should bids and contract be public accessible?	I think that final amount of proposals could be available to public, whereas detailed proposals should not be disclosed as these contain a lot of commercial secrets.
11.	Kāds ir Jūsu viedoklis par iepirkumiem līdz Ls10000 un kāda ir Jūsu pieredze šajos dažos mēnešos šajā aspektā?	What's your point of view of regulation of procurements with amounts LVL 1000-LVL 10000	We do not participate in so small tenders therefore we have not opinion.
12.	Vai Jūs esat vērsušies IUB ar sūdzību par kādu iepirkuma procedūru. Kādi ir rezultāti?	Have you ever submit a complaint to the PMB? What consequences followed?	We have not.
13.	Vai esat pārsūdzējuši IUB sūdzību izskatīšanas komisijas lēmumus? Kādi rezultāti?	Have you ever appealed PMB Complaints Review Commission decisions? What consequences followed?	No
14.	Vai esat saskāries ar īpašu attieksmi (sliktu attieksmi) no pasūtītāja puses, ja par tā rīcību esat sūdzējies iepriekš?	Have you ever met special attitude (bad attitude) from procurer, after you have complaint against him?	No
15.	Vai Jūs pievēršat uzmanību sūdzību izskatīšanas komisijas sastāvam un ekspertiem, kā arī viņu iespējamai saistībai ar kādu pretendentu, pasūtītāju un interešu konfliktiem?	Do you pay attention to stuff of PMB Complaints Review commission and experts and their possible relation with some bidder, procurer and conflict of interest?	No.
16.	Vai sūdzības netiek izmantotas kā negodīgas konkurences cīņas metode?	Are complaints used as a weapon in unfair competition?	It is possible that sometimes complaints procedure is used as an impediment. Perhaps liability for submitter of complaint should be introduced especially now when one complaint can crucially increase project expenses during 3-4 months.

17.	<p>Vai Jums ir bijušas “darīšanas” ar IUB? Lūdzu aprakstiet. Kāds ir jūsu viedoklis par IUB? Vai Jūs apmierina IUB darbība kopumā? Kādas problēmas saskatāt? Vai būtu nepieciešams kādas fundamentālas vai sīkas izmaiņas? Kāds Jūsu viedoklis par sūdzību izskatīšanas komisijas statusu (padotība, neatkarība)? Un tās lēmumiem (likuma 69.panta 2.daļas aspektā) vai ir problēmas apstākļi, ka IUB ir padots Finanšu ministrijai? Lūdzu izklāstiet.</p>	<p>Have you had any dealings with the PMB? Please describe. What do you think of the PMB? Are there problems because the PMB is under the Ministry of Finance? Please describe. Are you satisfied with PMB generally? Do you find any problems? Do you have suggestions of reforms necessary (fundamental or slight) What do you think about status of PMB Complaints Review commission (subordination, independence?). And its judgments (see Art. 69 (2) of the Law.</p>	<p>We have one case which involved dealing with PMB decisions and the attitude was constructive and we think it was also objective. The only problem related to status of PMB might occur when a contracting authority is Ministry of Finance.</p>
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18.	Kādu Jūs saskatāt KNAB lomu iepirkumu sfērā? Vai šai iestādei būtu vairāk jāiesaistās šajā sfērā?	What do you find role of KNAB in the field of procurement? Do they act enough, or they have to be more active?	If we assume that PMB acts objectively (and from our experience this is the case) and it is mandated to monitor procurements, then presence of KNAB is not required. However, we support the idea of KNAB controlling PMB decisions based on random selection principle (I assume they do already).
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Second biggest wholesaler of medicine during the first 6 months of 2006 SIA „Tamro”

1.	Cik bieži un kādās iepirkumu procedūrās Jūsu uzņēmums ir piedalījies? Tai skaitā tādās, kas rīkotas saskaņā ar Publisko iepirkumu likumu?	Aptuveni 70 – 80 procedūras gadā,. Gan cenu aptaujas, gan konkursi	How often and in what kind of procurements you participate? Have you participate in them after new law has taken effect?	Apr. 70 – 80 procurements per year. Different procurements, as competitions as well price quotations.
2.	Kādas problēmas pretendētājam Jūs saskatāt Publisko iepirkumu likumā piedāvājumu sagatavošanā?	Par daudz birokrātijas. Vienus un tos pašus dokumentus prasa viens un tas pats pasūtītājs vairākās procedūrās pēc kārtas. Daļēji šie dokumenti varētu būt būtiski, bet lielākā daļa- bezjēdzīgi, kurus komisija pat nepārbauda. Pieprasa “tikai ķeksītim”. Otra lieta – ļoti apjomīgas tehniskās specifikācijas, preču saraksti – līdz 600 pozīcijām, kas ievērojami apgrūtina precīza un kvalitatīva piedāvājuma sagatavošanu.	Do you find any difficulties or problems for bidder (preparing bid etc.) because of new law?	Too much bureaucracy. The same procurer organizing several procurements requires again and again the same documents. Nobody examine them. They are required only formally. Another problem – lists of goods required are very voluminous. More than 600 units. So it’s quite difficult to prepare precise and good quality bid.

3.	Vai Jūsaprāt Publ. iep. likums nav “atvērtāks” korupcijai un negodīgai rīcībai, salīdzinājumā ar veco likumu un MK not.?	Iepirkumos no Ls 1000 – 10000 izsludināšana ir kļuvusi visai nepārskatāma. Ir jālasa simtiem iestāžu mājas lapas vai, vēl sarežģītāk – vietējie rajonu laikraksti, lai atrastu sludinājumu un varētu piedalīties. Vēl viena problēma, iespējams specifiska zāļu tirgū – pasūtītāji pieprasa ražotāja pilnvarojumu tirgot konkrētās zāles. Un šeit ražotājs jau subjektīvi izlemj, kas tirgos un kas netirgos. Tās ir slepenas norunas starp lielajiem pasūtītājiem un ražotājiem. Kā rezultātā bezkonkurences apstākļos tiek piedāvātas augstākas cenas. Tā ir augsne korupcijai.	How do you find new law in aspect of prevention and fighting corruption in comparison with former law and Cabinet rulings?	It's quite hard to seek and find announcements of procurements of amounts Ls 1000-10000 in a local papers or small webpages. So it's very easy to organize those procedures behind “closed doors”. Another problem – procurer require manufacturer's certificate for trading its productions (specific medicine). It's in variance with system already working in the medicine market. Manufacturer decides who has and whop hasn't right to distribute one or another medicine. There is possibility of collusions, between manufacturer and procurer. In the result if some bidder is in a monopoly – the price is much higher. That is beaten track for corruption.
4.	Vai iepirkumu izsludināšana internetā ir pietiekama, vai nav nepieciešami vēl citi veidi?	Jā viss ir kārtībā. IUB mājas lapa ir pārskatāma. Labi, ka cenu aptaujas tiek izsludinātas publiski. Problēma jau iepriekš norādītie iepirkumi no Ls 1000-10000	Is there enough if procurement's announcements are published in internet only? Do you need another ways for that?	Yes, that is o.k. PMB webpage is easy for users. We find it very good that price quotations are published in PMB webpage. Problem – mentioned above procurements 1000-10000.

5.	Vai Jūs saskatāt problēmas piedāvājumu atvēršanas procesā, cenu nolasīšanā? Vai pirms atvēršanas, šajā procesā vai tūlīt pēc tam ir iespējamās manipulācijas ar piedāvājumiem?	Problēma varētu būt apstākļi, ka atvēršanas sanāksmē nolasītā informācija ir nepietiekama, lai saprastu piedāvājumus. Nelasa ne preču nosaukumus, nedz ražotājus. Tāpēc ļoti grūti izdarīt kādus secinājumus par konkurenta piedāvājuma saturu un atbilstību. Tas neparādās arī vēlāk protokolos. Agrāk nolasīja plašāku informāciju	Do you find any problems in opening of bids and reading aloud prices? Is it possible to manipulate with bids before, during or after opening of bids?	The problem in opening meeting is that commission loudly reads only prices unit by unit, but you don't know what kind of good (medicine) is that – what is manufacturer. So it's quite difficult to value another competitor's bid, because you don't know what he bids. Formally they did read more information from bids.
6.	Vai Jūs pievēršat uzmanību komisijas sastāvam un ekspertiem, kā arī viņu iespējamai saistībai ar kādu pretendentu un interešu konfliktiem?	Uzmanību pievēršam, taču kāda tam nozīme? Interešu konfliktu ir grūti pierādīt, bet tas pastāv visai bieži.	Do you pay attention to stuff of commission and experts and their possible relation with some bidder and conflict of interest?	Yes we do. But there is no point for that, because it's quite hard to prove conflict of interest. But it exist and pretty commonly.
7.	Kāds ir Jūsu viedoklis par piedāvājuma nodrošinājumu? Vai tas nevar tiks izmantots pretendentu loka samazināšanai?	Šajā ziņā mūsu darbības sfērā problēmu nav.	What's your mind about security of bids? Would it be used for decreasing amount of bids?	We don't find problems in our field in this aspect.
8.	Vai Jūsu piedāvājumus ir noraidīts gadījumos, kad tas ir lētākais? Un kāds tad ir noraidīšanas pamats?	Šādu gadījumu nav. Ja kādreiz ir bijis, tad komisija bija atzinusi, ka mūsu piedāvājums neatbilst tehniskajai specifikācijai	Has been your bid rejected in procurements, when that was the cheapest? If yes, what grounds were used for rejection?	We don't remember such situation. If was, then commission has found that our bid doesn't confirm with technical specifications.

9.	Vai Jums ir bijušas grūtības (neizsniedz, rada birokrātiskus šķēršļus u.tml.) saņemt iepirkuma procedūras dokumentus (protokols, informācija par līgumu)?	Šajā ziņā problēmu nav. Problēma, kas ar šo saistās prasīta atbildē uz 5. jautājumu. Līgumus neesam prasījuši biznesa ētikas apsvērumu dēļ.	Have you met difficulties (artificial obstacles, bureaucracy etc.) in receiving procurement documentation (protocols, information of contract)?	There is no problem with getting documents. Problem related to this is described in answer to question 5. We've not required agreements, because of business ethics.
10.	Vai uzskatāt, ka atklātība ir pietiekama? Vai līgumiem un piedāvājumiem būtu jābūt publiski pieejamiem korupcijas samazināšanas nolūkos?	Piedāvājumiem ir jābūt publiski pieejamiem. Līgumiem – diez vai. Lēmumu pieņemšanas process ir neskaidrs. Tas nav precīzi atspoguļots protokolos un noslēguma ziņojumā. Tāpēc ir visai grūti sagatavot un iesniegt sūdzību.	Is the access of information in procurement enough free? Should bids and contract be public accessible?	Bids should be freely accessible. Agreements – doubtful. The decision making is not quite clear. There is not all information of it in protocols and final report. So it's hard to prepare and submit complaint.
11.	Kāds ir Jūsu viedoklis par iepirkumiem līdz Ls10000 un kāda ir Jūsu pieredze šajos dažos mēnešos šajā aspektā?	Skatīt atbildi uz 3. jautājumu	What's your point of view of regulation of procurements with amounts LVL 1000-LVL 10000	See answer to question 3.
12.	Vai Jūs esat vērsušies IUB ar sūdzību par kādu iepirkuma procedūru. Kādi ir rezultāti?	Jā esam vērsušies vienu reizi. Uzvarējām.	Have you ever submit a complaint to the PMB? What consequences followed?	Yes, we have just once, and we won.
13.	Vai esat pārsūdzējuši IUB sūdzību izskatīšanas komisijas lēmumus? Kādi rezultāti?	Jā esam. Tas bija ilgs un smags process. Rezultātā notika jauns konkurss. Kurā mēs ieguvām tiesības noslēgt līgumu un prasību tiesā atsaucām.	Have you ever appealed PMB Complaints Review Commission decisions? What consequences followed?	Yes, we did, but it is very long and hard process. In a result there was a new procurement and we got an agreement. So we withdraw our claim.

15.	Vai esat saskāries ar īpašu attieksmi (sliktu attieksmi) no pasūtītāja puses, ja par tā rīcību esat sūdzējies iepriekš?	Nē, neesam sastapušies.	Have you ever met special attitude (bad attitude) from procurer, after you have complaint against him?	No, we have not faced.
16.	Vai Jūs pievēršat uzmanību sūdzību izskatīšanas komisijas sastāvam un ekspertiem, kā arī viņu iespējamai saistībai ar kādu pretendentu, pasūtītāju un interešu konfliktiem?	Latvijā ir 2 eksperti, tātad nav grūti noskaidrot kādas ir viņu attiecības ar pasūtītāju vai kādu no konkurentiem.	Do you pay attention to stuff of PMB Complaints Review commission and experts and their possible relation with some bidder, procurer and conflict of interest?	There are 2 experts in Latvia. So it's easy to know what relations they have with procurer or competitors.
17.	Vai sūdzības netiek izmantotas kā negodīgas konkurences cīņas metode?	Nē.	Are complaints used as a weapon in unfair competition?	No.

18.	<p>Vai Jums ir bijušas “darīšanas” ar IUB? Lūdzu aprakstiet. Kāds ir jūsu viedoklis par IUB? Vai Jūs apmierina IUB darbība kopumā? Kādas problēmas saskatāt? Vai būtu nepieciešams kādas fundamentālas vai sīkas izmaiņas? Kāds Jūsu viedoklis par sūdzību izskatīšanas komisijas statusu (padotība, neatkarība)? Un tās lēmumiem (likuma 69.panta 2.daļas aspektā) vai ir problēmas apstākļi, ka IUB ir padots Finanšu ministrijai? Lūdzu izklāstiet..</p>	Skatīt atbildes uz 12. un 13. jaut.	<p>Have you had any dealings with the PMB? Please describe. What do you think of the PMB? Are there problems because the PMB is under the Ministry of Finance? Please describe. Are you satisfied with PMB generally? Do you find any problems? Do you have suggestions of reforms necessary (fundamental or slight) What do you think about status of PMB Complaints Review commission (subordination, independence??). And it's judgments (see Art. 69 (2) of the Law.</p>	See answers to question 12 and 13
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19.	Kādu Jūs saskatāt KNAB lomu iepirkumu sfērā? Vai šai iestādei būtu vairāk jāiesaistās šajā sfērā?	Jā KNAB būtu jābūt aktīvākam. Bet mēs nesam šajos jautājumos iedziļinājušies.	What do you find role of KNAB in the field of procurement? Do they action enough, or they have to be more active?	Yes, KNAB should be more active. But we have not thought about it so deeply.
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## **Annex D Questionnaires submitted in advance of meetings (cont.)**

### 12. INTERVIEW Q-S FOR Delna

My mandate is to make recommendations to KNAB for better preventing and combating corruption in public procurement.

1. Do you know of cases involving corruption in procurements under the new public procurement law? Please describe such cases and their disposition.
3. Have any such cases involved false declarations by procurement commissions under Art. 23 of the Procurement law? What was their disposition?
4. What problems do you know of in preventing or combating corruption under the new Procurement Law?
5. Are there provisions in the Procurement Law, the Criminal Law, or other laws and their implementing regulations and procedures which should be modified or supplemented to make it possible to prevent and combat corruption in public procurement more successfully?
6. Do you know of any corruption in public procurements valued at less than 10,000 Lats?
7. Would it be desirable for there to be provisions in the new procurement law specifying sanctions, criminal or administrative, for violations of various provisions of the law?
8. Do you know of instances in procurements under the new law where there was insufficient advance notice to suppliers or where suppliers had difficulty in getting information about the procurements?
9. Are there matters that should be covered, but are not, or should be covered in a different way in the new procurement law or in other laws and regulations and internal control procedures so that there is adequate transparency and availability of information, no unfairness, and minimal corruption in public procurements?
10. Are you familiar with the Complaints Review Commission of the Procurement Monitoring Bureau or KNAB? Have you had any reason to question any of their actions?
11. The 2002 Open Society report on "Corruption and Anti-corruption Policy in Latvia" reported interference by the Ministry of Justice in judicial matters, corruption among judges and prosecutors, and unconscionable delays in adjudication. What is the situation in Latvia today?

**CODE OF CONDUCT FOR THOSE INVOLVED IN PUBLIC  
PROCUREMENTS IN LATVIA**

This code of conduct does not address every possible situation that may arise. It also cannot serve as a substitute for the responsibility of the State Secretary or other public official supervising the procurement commission, the procurement commission members and experts, and all other persons involved in public procurements in Latvia including but not limited to those performing only routine clerical and non-discretionary functions and tasks to:

- \$ exercise sound judgment;
- \$ act in accordance with the highest standards of ethics; and
- \$ abide by all applicable laws.

This code of conduct is intended to:

- \$ confirm each signatory's commitment to all of its precepts;
- \$ guide signatories who are faced with ethical dilemmas in a complex environment;
- \$ provide a reference for disciplinary, administrative, and criminal proceedings if a signatory is involved in fraud, corruption, collusion, or other prohibited acts; and
- \$ serve as a public commitment by the procuring entity to the highest standards of ethical and professional conduct in all procurement proceedings.

Definitions:

“Relative” means a person so defined in the Law on Public Procurement or the Law on Prevention of Conflict of Interest in Activities of Public Officials

“Member” means anyone appointed to a procurement commission as the chairperson or as an ordinary member or to assist the commission for purposes of conducting procurement procedures for procuring entities.

“Privileged or confidential information” means any information:

- \$ determined by the procuring entity to be privileged or confidential;
- \$ discussed in closed session by the procurement commission;
- \$ which if disclosed would violate a person's right to privacy; or
- \$ declared to be privileged, confidential, or secret by any law.



## CODE OF CONDUCT

I, [insert name], acting for [insert name of procuring entity] in any matter relating to a public procurement hereby promise:

1. to act at all times with fidelity, honesty, integrity, and in the best interests of the Republic of Latvia and the general public it serves;
2. to diligently perform my duties efficiently, effectively, and strictly in accordance with the rules governing public procurements in Latvia by this procuring entity;
3. to act at all times in accordance with relevant legislation and regulations, including Ministry of Finance regulations, guidance of the Procurement Monitoring Bureau, and guidelines and instructions of this procuring entity;
4. to recognise the public's right to access to information in accordance with applicable laws, regulations, guidelines, and instructions;
5. to take the utmost care in ensuring that there is reasonable protection of the records of the procuring entity and all procurement and bid documents;
6. not to misuse my position or privileges or privileged or confidential information obtained thereby;
7. to exercise my best efforts to carry out my duties with the highest skill and care of which I am capable and with my best judgement;
8. not to discriminate against any supplier or bidder on the grounds of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language and not to favor any supplier or bidder in any manner prohibited by applicable law, regulation, guidance, or instruction;
9. not to abuse my position in the public service to promote or prejudice the interest of any political party or interest group;
10. to give the internal auditors, public or private, and the State Audit Office all the information and explanations they require to carry out their functions;
11. to immediately report to the appropriate authorities any case of fraud, corruption, nepotism, or of an offer of or delivery of a bribe, gift, or other favor, including but not limited to meals or entertainment, or of maladministration or any other acts of which I have knowledge which might constitute a violation of the law or regulations, which might be prejudicial to the public interest, or which might be intended to induce me or any other public official to act or refrain from acting in any way in any procurement matter;

12. to provide full, accurate, and honest information without any material omissions or misrepresentations or otherwise misleading information in the declarations of interest which I sign pursuant to the Law on Public Procurement and the Law on Prevention of Conflict of Interest in Activities of Public Officials and not to hesitate to recuse myself in any procurement proceeding when I have any doubt about my ability to act in a fair, unbiased, and proper way without favoring or discriminating against any supplier or bidder;

13. not to make any false allegations about any bidder or supplier;

14. not to make any false or misleading entries in any procurement records;

15. not to make any covert promises to, agreements with, or in relation to any supplier, bidder, or bid and not to make any representations to any supplier or bidder that are not made equally and publicly to all suppliers and bidders;

16. to protect all privileged or confidential information relating to any procurement from theft, unauthorised disclosure, or inappropriate use, and I also promise:

16.1. not to respond to any queries relating to a bid evaluation which may not yet be publicized in accordance with the law;

16.2. not to speak to or correspond carelessly with any person including, but not limited to, colleagues, friends, and family members on any matter related to a bid evaluation;

17. not to request, solicit, or accept any bribe, reward, gift, or other favour in return for acting or not acting in a particular way on any procurement matter or for disclosing privileged or confidential information; and

18. not to accept, agree to accept, or later accept any kickbacks in the form of money, favours, inappropriate gifts, or anything else from anyone which might be viewed as aimed at influencing or directing my action in any procurement proceeding.

Breach of this Code of Conduct or any provision of the Law on Public Procurement will constitute a violation of my duties as a public officer of the Republic of Latvia and will make me liable for appropriate disciplinary, administrative, and criminal sanctions.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Witnessed: \_\_\_\_\_  
                  [signature of witness]  
[type name of witness:]