

MAJOR CORRUPTION RISKS IN DEFENCE PROCUREMENT IN ARMENIA

4 RED FLAGS

YEREVAN 2021



This research is conducted by Transparency International Anticorruption Center (TIAC) with the support of Transparency International – Defence and Security (TI-DS) and the UK Foreign, Commonwealth & Development Office (FCDO).

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IN DEFENCE PROCUREMENT IN ARMENIA:

4 RED FLAGS

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ABBREVIATIONS

AMD	Armenian Dram
GDI	Government Defence Integrity Index
GDP	Gross Domestic Product
MoD	Ministry of Defence
NGO	Non-governmental organization
NSS	National Security Service
PEP	Politically exposed persons
RA	Republic of Armenia
SIPRI	Stockholm International Peace Research Institute
TI	Transparency International
TIAC	Transparency International Anticorruption Center
TI-DS	Transparency International - Defence and Security
USD	United States Dollar

EXECUTIVE SUMMARY

According to Transparency International's Government Defence Integrity Index (GDI) Armenia's defence procurement scored as a 'D' in the 2020 research. GDI showed that Armenia's current oversight and management framework is not adequate for corruption control in the procurement. It is not sufficiently transparent and is not subject to proper parliamentary and civil control.¹

This report is prepared by Transparency International Anticorruption Center (TIAC) with the support of Transparency International – Defence and Security (TI-DS) and the UK Foreign, Commonwealth & Development Office (FCDO), during January-March 2021.

The report intends to promote defence sector reforms in Armenia's defence procurement process by identifying and providing solutions to the 'red flags' - the types of indicators that signal the probability of corrupt practices, alerts that a corruption risk might be materializing and hints where more scrutiny is required from policy makers, law enforcement agencies, civil society organizations, investigative journalists and other stakeholders to prevent corruption or pursue with the incident.

The report discusses the legal context for procurement processes relevant to the identified 'red flags', describes the cases that have revealed corrupt practices and proposes increasing the scope of information, which could enhance the accountability and thus prevent corruption risks. Additionally, the report recommends general measures to enhance the control and oversight and reveal the problems throughout the whole procurement cycle.

Red flags identified by the research are the following:

- ▶ **Red flag 1:** Vague or biased technical specifications or overriding the requirements
- ▶ **Red flag 2:** The significant deviation of the agreed award price from the market value
- ▶ **Red flag 3:** The selected contractor's beneficial owner linked to MoD or a PEP
- ▶ **Red flag 4:** Ineffective planning and non-formal acquisitions

The report concludes that a major part of defence procurement in Armenia is classified and hence there is not much data. In most cases there has been no official information on when the procurement was carried out, what were the technical specifications, who were the competitors, whether the contract was completed, etc. Such data on discrete cases has been exposed long after the procurement - through the complaints, statements of law enforcement institutions wherever there was criminal prosecution in place, court litigation materials as well as in the reports of international organizations and experts and media coverage. Though the revealed fragmentary information was not enough to make a more thorough analysis of procurement processes, the report discusses the most controversial angles to outline recommendations to remove corruption risks. It also provides the stakeholders of the defence

¹ Transparency International - Defence and Security (TI-DS), *Government Defence Index: Armenia*, December 2020, <https://ti-defence.org/gdi/countries/armenia>

procurement with guidance on the necessary steps for ensuring the transparency of data, as well as on control measures to ensure the integrity of defence procurement.

The report encourages different actors to use the recommendations of the report, including:

- **government officials who design competition and award processes** - to adhere to integrity standards and to avoid problematic decisions and actions within procurement processes;
- **institutions and officials who approve and oversee the awards** - to avoid award decisions that end up in controversy and to detect questionable behaviors as the award process unfolds;
- **parliamentarians** - to improve legislation and to hold MoD officials responsible for the contract award as part of their legislative and oversight powers;
- **audit chamber and other state institutions with an oversight mandate** - to pose the right questions to detect misconduct in the procurement decision-making and actions;
- **law enforcement institutions and officers** - to organize investigations into suspicious award processes;
- **appeal reviewers** - to analyze the appeals, identify the problems and adopt decisions;
- **defence companies** - to ensure their due diligence, risk management or compliance functions, as well as to assess corruption risks when participating in a bid or partnering with other companies and contracting with MoD;
- **civil society actors, journalists and international donors** - to formulate the demand for reforming the procurement process and advancing transparency and accountability in the area.

Major recommendations of the report propose to:

- **revise regulations** on classification of defence and security-sensitive information;
- **advance transparency** of non-classified defence data;
- **improve the exposure of classified data** to the internal and external oversight institutions or beyond the expiry of the secrecy period;
- **expand provisions** for the preparation of procurement, including the planning, justification, market analysis, development of specifications as well as the due assessment of the quality and formal acceptance of subjects of procurement;
- **advance disclosure of the beneficial ownership** of contracting companies and **prevention of conflict of interest** or engagement of politically exposed persons (PEPs).

INTRODUCTION

Defence procurement is considered to be a sensitive issue in Armenia, given consideration of the ongoing conflict between Armenia and Azerbaijan over Armenian populated Artsakh (Nagorno-Karabakh). The conflict culminated in a full-scale war unleashed by Azerbaijan against Artsakh on 27 September 2020 with full support of Turkey. The ceasefire was brokered by Russia on 9-10 November 2020, following 44-days of aggression.²

In years prior to war Armenia's military expenditure has risen from 3.9% of GDP in 2014, to 4.9% in 2019.³ This increase has been driven by the growing tension on the borders with Azerbaijan - a country that is spending a significant volume of its oil money on the expansion of its military and intensively preparing its population for war.

Corruption in the defence sector has been raised on the agenda of the Armenian public since early 2004, but particularly from 2011, when the civil society groups started questioning the causes of non-combat deaths and the controversial investigation of those. Corruption was one of the focus areas of the Armenian Parliament's Examination Committee, established to scrutinize the matters related to the 4-day aggression on the borderline of Artsakh and Azerbaijan in April 2016. And, finally, corruption issues were raised during and after the active war of 2020, raising questions about the causes of the poor conditions in the Armenian army.

Armenia's defence sector, as well as defence procurement, scored as a 'D' in the most recent edition of Transparency International's Government Defence Integrity Index (GDI), indicating high risks of corruption.⁴

The GDI reveals that Armenia's current oversight and management framework is not adequate for corruption control in the procurement process. It shows that the country does not have a publicly available process for acquisition planning that would entail clear external oversight or tie the procurement to the National Security Strategy. Oversight of procurement procedures is limited by secrecy clauses that restrict the volume of publicly available information considerably.

The National Assembly does not play any significant role in defence procurement decision-making or oversight.⁵ Poor control in this sector is conditioned by insufficient skills of the respective committee at the National Assembly, but also the general lack of tradition for parliamentary control over the executive, given that Armenia started moving to a parliamentary governance system in 2018, following the constitutional referendum held in late 2015.

Corruption cases – the corrupt acts, incidents or offenses – are generally complex and obscure. In the defence sector those are additionally curtailed by excessive or unjustified secrecy regulations and practices that make the sector much more prone to corruption.

² Trilateral Statement signed by Vladimir Putin, President of Russian Federation, Ilham Aliyev, President of the Republic of Azerbaijan and Nikol Pashinyan, Prime-Minister of the Republic of Armenia, 9 November 2020, <http://kremlin.ru/acts/news/64384>.

³ Stockholm International Peace Research Institute, *Military Expenditure by Country as Percentage of GDP, 1988-2019, 2020*, <https://www.sipri.org/sites/default/files/Data%20for%20all%20countries%20from%201988%E2%80%932019%20as%20a%20share%20of%20GDP.pdf>

⁴ TI-DS, *Government Defence Index: Armenia*, December 2020, <https://ti-defence.org/gdi/countries/armenia>

⁵ Ibid.

Meanwhile, outcomes of defence corruption aside from wasting public funds may endanger lives of military and civilians, jeopardize national security.

Corrupt acts can be identified and detected on the basis of distinguished patterns and signs – the so-called ‘red flags’ - that signal problematic behavior or at least corruption risks, i.e. the possibility for the acts of corruption. Corruption risks may be conditioned by internal and external factors and can be contained in an environment where there is no reasonable transparency of processes and control mechanisms and efforts in place.

This report discusses the legal requirements relevant to the identified ‘red flags’ in defence sector procurement in Armenia, describes the cases that indicate corrupt practices, and proposes scopes of information which could increase transparency and thus prevent corruption risks. Additionally, the report recommends general measures to enhance the control and oversight and reveal the problems throughout the whole procurement cycle.

The report is aimed at promoting reforms of defence procurement processes in Armenia, alerting the officials, law enforcement agencies, parliamentary and other oversight bodies, civil society organizations and media where more scrutiny is required and helping different actors to take part in the relevant processes.

The research was conducted in January-March 2021. It looked into major incidents of alleged or proven corruption in the Armenian military procurement during the period 2016–2019. The study has taken into account the findings of the earlier research of public procurement conducted by TIAC, as well as assessments of institutional controls on defence sector procurement as part of the Government Defence Integrity Index 2020 - developed by Transparency International Defence and Security (TI-DS). The report also refers to open sources, including the official websites of the state institutions – the Ministry of Defence, Ministry of Finance and law enforcement agencies (Investigative Committee⁶ and National Security Service (NSS)),⁷ court rulings,⁸ non-governmental organizations’ (NGO) reports,⁹ media news, etc. Despite a lack of information on classified procurement, this report still considered the cases of corruption in defence procurement arising from news stories, since these have not been dismissed by the MoD or other institutions and could serve as an indicator of possible issues.

Given the sensitive timing of the research following the Artsakh war in 2020 as well as the associated political instability, the research did not involve verification interviews with officials or companies. It did however undergo a peer review by three independent experts in the field.

⁶ RA Law on Investigative Committee of the Republic of Armenia, <https://www.arlis.am/DocumentView.aspx?DocID=148954>

⁷ National Security Service of the Republic of Armenia, *Case of Embezzlement in Procurement Process for the RA Ministry of Defence Needs*, 21 August 2019, <https://www.sns.am/en/press-releases/2019/08/21/case-of-embezzlement-in-procurement-process-for-the-ra-ministry-of-defence-needs/177>; Gayane Saribekyan, *NSS Arrested David Galstyan for Corrupt Case of Weapons Trade*, Radio Liberty, 1 February 2021, <https://www.azatutyun.am/a/31080269.html>; NSS, *Announcement*, 1 February 2021, <https://www.sns.am/hy/haynppnnwqnnuajnnlunetn/2021/02/01/haynppnnwqnnuajnnlunetn-utbawlnjn/545>

⁸ Court decision, http://www.datalex.am/?app=AppCaseSearch&case_id=1125899906904744; Court decision, http://www.datalex.am/?app=AppCaseSearch&case_id=15481123719147107

⁹ National Center of Public Policy Research, <http://policyobserver.am>

BACKGROUND

The military doctrine of the Republic of Armenia was adopted by the President of the Republic of Armenia in 2007 and has not been revised since.¹⁰ In the same year the President issued the first National Security Strategy,¹¹ which has since been revised by the Government of Armenia in July 2020.¹²

Public procurement in Armenia is regulated by the *Law on Procurement* (hereinafter – also the Law), adopted by the National Assembly of Armenia in December 2016.¹³ Additionally, there are relevant sub-laws, such as Government Decision N526-N from 4 May 2017 on the *Approval of the Procedures for the Organization of Procurement Process and on Declaring Invalid the Government Decision N168-N from 10 February 2011* and other regulations listed in the Law's Article 5.¹⁴

The Law regulates procurement conducted by all state administration and local self-governing bodies and entities and enterprises subordinated to them, which includes the entire procurement by MoD and its entities and enterprises (Article 2). According to the *Law on Defence*, the organization of defence assumes an efficient, transparent and competitive procurement process at time of peace, and the MoD is responsible for procurement of armaments.¹⁵

General methods used for the procurement of goods, works and services in Armenia include electronic auctions, open and closed tenders, requests for quotation and single source procurements (Article 18). The officially preferred method is a tender, unless the subject of procurement is included in the list of goods, works and services acquired through electronic auction or, in case of subjects containing state secret, in the list - acquired through closed periodic tenders (Article 18, part 5).¹⁶ Tenders can take place in two stages and entail advance negotiations with qualified bidders in order to specify the technical requirements for the purchased items (Article 19).

¹⁰ RA President Decree NH-308-N from 25 December 2007 "On Approving the Military Doctrine of the Republic of Armenia," <https://www.arlis.am/DocumentView.aspx?docid=41116>

¹¹ RA President Decree NH-37-N from 7 February 2007 "On Approving National Security Strategy of the Republic of Armenia," <https://www.arlis.am/DocumentView.aspx?docid=31189>

¹² Republic of Armenia National Security Strategy, <https://www.gov.am/am/National-Security-Strategy>

¹³ RA Law on Procurement (the forth law in sequence, following laws from 2000, 2004, 2010), adopted on 16 December 2016, in force since April 2017, <https://www.arlis.am/DocumentView.aspx?DocID=121796>

¹⁴ The main Government Decision N526-N from 4 May 2017 "On the Approval of the Procedures for the Organization of Procurement Process and on Declaring Invalid Government Decision N168-N from 10 February 2011"

¹⁵ RA Law on Defence Article 5, part 1, par. 15 and Article 10, part 1, par. 10

¹⁶ RA Government Decision N534-N from 18 May 2017 "On the Approval of the Order of the Electronic Auction and the List of Goods, Works and Services Acquired through Electronic Auction and Government Decision N526-N from 4 May 2017 on the Approval of the Procedures for the Organization of Procurement Process and on Declaring Invalid Government Decision N168-N from 10 February 2011"

According to the Law, the classified procurement plans include goods, works and services necessary for ensuring national security and the safety of officials subject to special state protection¹⁷ - covering the protocol-based expenditures, accommodation, food and transport services (technical service of means of transportation), special hardware and software support in the field of technical maintenance and repair of vehicles, provision of military equipment, armament, ammunition and military-technical facilities (Article 15, part 2).

A number of articles scattered throughout the Law regulate specific aspects of the procurement of classified goods, works and services. Those refer to:

- application of closed tenders (Article 21, part 1);
- specific conditions in applying price quotations (Article 22, part 1);
- publication of the minutes of the bid opening (Article 33, part 8);
- calculation of the contract price (Article 39, part 2);
- publication of the minutes of evaluation sessions (Article 34, part 9);
- limitations on accessibility of the copy of the protocol of the procurement procedure or a related document upon access to information inquiry (Article 9, part 4);
- publication of the decision on concluding the contract (Article 10, part 1);
- publication of the actual concluded contracts (Article 11, part 1).

According to the *Law on State and Official Secrets (1996)*, the information related to the procurement in the following fields might be classified as state or official secret:

- in the **military field** - the information on the plans for a military complex, directions for enhancement of armaments and military equipment, the military tactical-technical specifications, etc. (Article 9, point 1);
- in the field of **foreign relations** - the information on the foreign economic (trade, loans and currency) activities, the early dissemination of which may cause harm to the vital interests of the Republic of Armenia, etc. (Article 9, point 2);
- in the field of **economy, science and technology** - information on the amounts of orders for state protection, programmes (assignments), production and supplies of armaments and military equipment, the availability and enhancement of industrial capacities thereof, the partnerships established between enterprises and institutions for that purpose, on the manufacturers of the specified armaments and military equipment or on persons performing technical and scientific adaptations, etc. (Article 9, point 3);
- in the field of **intelligence, counterintelligence, operational intelligence activities** - information on forces for intelligence, counterintelligence, operational intelligence activities, resources, sources, methods, plans and results, as well as data on financing of those activities, where those data reveal the listed pieces of information, etc. (Article 9, point 4).¹⁸

¹⁷ RA Law on Procurement, Article 15, part 2; RA Law on Ensuring the Safety of Persons Subject to Special State Protection, Article 5, part 2

¹⁸ RA Law on State and Official Secrets, <https://www.arlis.am/documentview.aspx?docID=26193>

The *Law on State and Official Secrets* prescribes three levels of secrecy - “confidential,” “special importance” and “extremely confidential.” It stipulates that the status of secrecy may be kept for up to 10 years for the category of “confidential” information, and up to 30 years for categories of “special importance” and “extremely confidential” information (Article 15). Though the Law tries to differentiate the mentioned three categories of information on the basis of importance, nature and volume of means for the protection as well as of the possible damage to the national security caused by disclosure, it does not specify clear criteria to determine the importance or the level of damage to the national security (Article 4).

The state budget for 2021 has allocated about AMD 306.3 billion for the category of “military defence,” of which about AMD 219.1 billion has been designated for military needs and maintenance of military systems, and about AMD 87.2 billion - for improvement to MoD buildings. The non-classified procurement plans of the MoD cover only expenditures worth AMD 29.4 billion for “military defence” (meaning that 87% of the AMD 219.1bln. budget is classified) and AMD 4.7 billion for improvement of MoD buildings (meaning that 95% of AMD 87.2 billion is classified).¹⁹

Contrary to classifying the large volume of important military procurement as secret, the non-classified part of the budget allocated for military needs in practice contains excessive and unnecessary details. It is comprised of 2,190 lines and includes such minor items as, for example, the printing services that cost about AMD 106.²⁰ Such level of detail obscures the larger volumes of spending, complicates the actual oversight and, in reality, does not provide much value for ensuring transparency and accountability.

As purchases and stockpiles of weapons, armament and ammunition are classified, there is no official data available on those. Meanwhile, one may find rather comprehensive information, including the countries of origin of the purchased goods and the number of howitzers, rocket and missile launchers, infantry fighting vehicles, armored personnel carriers, tanks, warplanes and helicopters and other military hardware, in external public sources within international reports, such as the Stockholm International Peace Research Institute (SIPRI),²¹ Global Firepower,²² Central Intelligence Agency of the US²³ and others. Also, information about the controversial purchases appear in media sources, covered by local military analysts. For example, in February 2021 – information about missiles acquired by Armenia and Azerbaijan appeared in *EVN Report*.²⁴ Earlier, on June 1 2020, *The Central Asia – Caucasus Analyst* published an article about the sales of Indian SWATHI counter-battery radars to Armenia for USD 40 million. In March 2019, the same source published about acquisition of Smerch

¹⁹ RA Government Decision N2215-N from 30 December 2020 “On Republic of Armenia 2021 Budget Implementation Measures,” Annex 10, <https://www.arlis.am/DocumentView.aspx?docid=149033>

²⁰ The procurement plan includes separate lines with total amounts of USD 0.8 (or AMD 400) inorganic chemical materials, three different lines for USD 3 (or AMD 1500) each for 3 magnets, USD 1 (or AMD 500) for different chemical materials, 13 separate lines to buy 26 brushes for USD 4 (or AMD 2,000) each, etc.

²¹ Stockholm International Peace Research Institute, *Trade Registers*, https://armstrade.sipri.org/armstrade/page/trade_register.php; EVN Report, *Transfer of Major Weapons*, <https://www.evnreport.com/references/transfers-of-major-weapons>; Hovhannes Nazaretyan, *Arms Supplies to Armenia and Azerbaijan*, EVN Report, 17 February 2021, <https://www.evnreport.com/spotlight-karabakh/arms-supplies-to-armenia-and-azerbaijan?fbclid=IwAR1RxW5mrAAxc6DKTJqhgzVKyE1L1CtQEmamm9u6wrhsO8iHEPICV2H9XpE>

²² Global Firepower, Comparison of Armenia and Azerbaijan, <https://www.globalfirepower.com/countries-comparison-detail.asp?form=form&country1=armenia&country2=azerbaijan&Submit=COMPARE>

²³ Central Intelligence Agency, *Countries: Armenia*, <https://www.cia.gov/the-world-factbook/countries/armenia>

²⁴ Hovhannes Nazaretyan, *Arms Supplies to Armenia and Azerbaijan*, EVN Report, 17 February 2021, https://www.evnreport.com/spotlight-karabakh/arms-supplies-to-armenia-and-azerbaijan?fbclid=IwAR3MdmKuzFFCmYkQGMDSJbIIIVNyL9DU6cenrKOhhKILf_5kh_fw0bOzNI

MLRS, TOS-1A flamethrower systems, Igla-S air-defense and Cornet-E anti-tank missile systems.²⁵ Although some part of this information comes from third party sources, the government of Armenia has, so far, not denied it. In addition, more details are revealed through criminal investigations on corruption cases, published by the Republic of Armenia Investigative Committee, NSS or Judicial Department.

Armenia uses an electronic procurement system - called Armeps.²⁶ According to the Law, the Government approves regulation of electronic tenders and the list of goods, works and services, including many non-classified defence-related items to be procured via electronic tender (Article 5, part 1, points 14 and 15). In 2017, the RA Government approved a list of 238 goods, 22 works and 56 services to be procured via electronic tender, many of which applied also to the defence sector (for example, petrol, diesel, all kinds of food products, paper, office equipment and stationary, flowers, plants and other similar items, parts necessary for maintenance of cars and office equipment, doors and windows, transportation and related services, internet services and software, etc.).²⁷ The non-classified contracts and changes to those are being published in the Official Procurement Bulletin.²⁸

According to the Law, every person has a right to appeal against the actions (inaction) and decisions of the contracting authority and the evaluation commission, as well as the person examining procurement-related appeals (Article 46, part 1). The latter is a body that carries out unbiased and independent investigations, is not interested in the outcome of a certain procurement process and is protected from external influences while performing its obligations and exercising its rights (Article 47, part 2).

The Law sets a number of requirements in order to ensure the integrity of the complaint process. Specifically, the person examining procurement-related appeals shall not examine an appeal submitted by or involving a related organization (an organization founded by him/her, an organization wherein he/she holds a share, a person with whom he/she is linked by kinship or in-law relationships, an organization founded by that person, or an organization wherein that person holds a share (unit)). During the examination of each appeal, the person examining procurement-related appeals shall sign a statement indicating an absence of a conflict of interest, which shall be published in the Official Procurement Bulletin together with the decision adopted on the appeal. In case there is a conflict of interest, that person shall recuse himself/herself from examination of the respective appeal. (Article 49, part 2).

²⁵ Fuad Shahbazov, *India Wins Defense Deal with Armenia*, The Central Asia – Caucasus Analyst, 1 June 2020, <http://www.cacianalyst.org/publications/analytical-articles/item/13620-india-wins-defense-deal-with-armenia.html>; Ilgar Gurbanov, *Military Procurements on Armenia's and Azerbaijan's Defense Agendas*, The Central Asia – Caucasus Analyst, 27 March 2019, <https://cacianalyst.org/publications/analytical-articles/item/13564-military-procurements-on-armenias-and-azerbaijans-defense-agendas.html>

²⁶ Armenian Electronic Procurement System at www.armeps.am. It should be noted that the system oftentimes experiences failures and breaks, forcing the procurement to be done in the non-electronic format.

²⁷ RA Government Decision N534-N from 18 May 2017 "On Approving Regulation of Electronic Tender and the List of Goods, Works and Services to be Procured via Electronic Tender," <https://www.arlis.am/DocumentView.aspx?docID=138560>

²⁸ RA Official Procurement Bulletin, www.gnumner.am as well as www.armeps.am/ppcm

FINDINGS: THE MAJOR RED FLAGS

Based on the research and sources described above, the report has identified the most frequent 'red flags' that indicate possible corruption or corruption risks in the defence procurement process:

- ▶ **Red flag 1:** Vague or biased technical specifications or overriding the requirements
- ▶ **Red flag 2:** The significant deviation of the agreed award price from the market value
- ▶ **Red flag 3:** The selected contractor's beneficial owner linked to MoD or a PEP
- ▶ **Red flag 4:** Ineffective planning and non-formal acquisitions

More detailed description of the red flags, specific warning signs and the respective corruption risks, as well as the needed transparency measures, are provided below.

Red flag 1: Vague or biased technical specifications or overriding the requirements

Description

Development of specifications of to-be-procured goods, works or services is a key process in the procurement cycle, which aims to provide a basis for the acquired item to satisfy a particular need at an economical cost.

The Armenian *Law on Procurement* has prescribed a wide range of provisions to ensure clear and fair specifications for the procurement. The description of the subject of procurement must fully and clearly describe the characteristics of goods, works or services to be acquired and terms for their acquisition and payment - ruling out any different interpretation. The description shall ensure equal conditions of competition for potential bidders, shall not create unjustified obstacles for competition, shall be objectively grounded and proportionate to the need for which the given procurement is carried out, shall include the full and relevant description of specifications and technical data of the subject of procurement, timetable of works or of delivery of goods or services and other non-price conditions. Depending on the peculiarity of the subject of procurement, the specification shall, to the extent possible, include "the clear description of the conditions related to the quality, standard, safety, conventional signs, terminology, packaging, unloading, dimension and designs for goods, works or services to be acquired, and other characteristics related to the subject of procurement based on international standards, Armenian normative-technical documents and standards or, in their absence, the temporary technical conditions" (Article 13).

The characteristics of the subject of procurement may also be defined as performance-related or functional descriptions, which must be submitted with sufficient accuracy, allowing bidders and the contracting authority to have a precise understanding of the subject of the contract. The characteristics of the subject of procurement should not contain a requirement for or a reference to any trademark, a firm name, a license, a sketch or a model, country of origin or a

specific source or a manufacturer, except for cases when it is impossible to describe the subject of procurement without them. In case of using references, the descriptions of characteristics must contain the words “or equivalent” (Article 13).

Normally, in case of military hardware and software, the MoD must make sure that those are compatible with other hardware and software already possessed by Armed Forces and its integration into the existing systems will complement the defence capacities of the state. Apparently, the costs of vagueness of the defined technical specifications and of the mismatches of procured items with the actual needs is a lot higher in the defence sector as compared to others, given that it may impede the ability of the army to defend the nation and put at risk the lives of its citizens.

A key function to ensure that the technical specifications are met by the supplier takes place at the stage of acceptance of the results of contract implementation, confirming that the actual deliverables correspond to specifications of goods, works or services set forth in the contract. This procedure is prescribed in Government Decision 526-N, Section XVII.

Specific ‘red flag’ warning signs

- There is a lack of analysis of the need for a specific procurement;
- There is no adequate justification for the procurement, including its compatibility and complementarity to other systems and items already in place;
- Technical requirements do not align with the compatibility and interoperability with other systems already in use by the Armed Forces;
- Technical specifications are not based on clear requirements;
- Technical specifications are very narrowly formulated and/or are biased, which may result in restricted competition;
- Technical specifications are vague, which add the ambiguity and complicate the acceptance of goods, services or works at contract completion stage;
- Selection and award criteria are not clearly defined or disclosed in advance.

Cases

Vaguely defined needs and specifications and controversial purchases of defence related goods, works and services are quite a prevalent practice in Armenia. Some relevant incidents are described below.

In the summer of 2020, the MoD acquired SWATHI counter-battery radars from India, which raised concerns about the difficulty of integrating those with Russian-made weaponry possessed by the Armenian Armed Forces.²⁹ The procurement was classified and technical specifications were not made public in order to be able analyze whether those were vague or biased or what were the stipulated requirements. Nevertheless, the issue of incompatibility, raised by media sources, was never rejected by the authorities. The published news at least

²⁹ Chitrnanjan Kumar, *India pips Russia, Poland to Secure \$40 mln Defence Deal with Armenia*, 1 March 2020, <https://www.businesstoday.in/current/economy-politics/india-pips-russia-poland-to-secure--40-mln-defence-deal-to-armenia/story/397235.html>; Fuad Shahbazov, *India Wins Defense Deal with Armenia*, 1 June 2020, <https://www.cacianalyst.org/publications/analytical-articles/item/13620-india-wins-defense-deal-with-armenia.html>

generates serious concerns on poor quality of drafting of technical specifications or the eventual failure in decision-making to accept the wrongly purchased goods.

In May 2019, “ORSIS ARMS” Ltd. won a tender to supply thermal imaging equipment to the MoD.³⁰ Later, the MoD canceled the tender. One of the competitors - “Unicum Engineering” Ltd. - claimed that the winner of the tender - “ORSIS ARMS” Ltd. - instead of the military equipment with a working distance of 1,600 meters, specified in the bid, has offered hunting equipment – with a working distance of 600 meters.³¹ In February 2020, Alexander Sirunyan, the lawyer of the parent company of ORSIS– “Promtechnologia” corporation – made a statement that ORSIS was the only company that took part in the bid, given that it was the producer of the required goods and nobody else could provide that type of equipment in the needed quantity of 700 units. There is no information whether, along the investigation of the criminal case, any MoD official was prosecuted for these apparent failures.

In 2018, the MoD signed a contract with “Mosston Engineering” to supply artillery shells produced in 1983-1986. According to information published by NSS, the company actually supplied shells produced in 1977.³² The shells supplied were of lower quality, did not assure the desirable distance of hitting and were not compatible with artillery munition possessed by MoD, and hence could not be used to fulfil the military tasks. In February 2021, the NSS announced the arrest of David Galstyan, the president of “Mosston Engineering” and the former advisor to the former Minister of Defense.³³ NSS has not specified whether any official from MoD has been charged specifically for the vague technical specifications or acceptance of the procured shells during the contract completion stage, though at a later stage accusations were posed against then Minister of Defence Davit Tonoyan for grand embezzlement.

In 2016, in an earlier case by the Investigative Committee, it was announced that David Abrahamyan, the Head of the motor service of the Armed Forces Armaments Department had abused power approving the acceptance of tools and devices which did not comply with technical specifications. The press release issued by the Investigative Committee did not mention the technical specifications, and the tender information for munitions is classified information, so it is not possible to check. Yet, based on the brief information available publicly one may still conclude that the non-compliance of the purchased goods with the requirements could be possible in case of the unclear or biased formulation of technical specifications – subject to multiple interpretations, and/or overriding/ignoring those by the evaluation committee at the stage of evaluation of bids or by the purchasing unit of MoD at the stage of

³⁰ Narek Kirakosyan, “There Was a Criminal Behavior”: Who and Why Tried to Supply Hunting instead of Military Ammunition to MoD. *New Details about ORSIS Affair*, Factor, 4 November 2019, <https://factor.am/196539.html>.

³¹ Ibid.; Sargis Harutiunyan, *MoD: There Are Suspicions That the Russian Company had a Goal to Supply Hunting, Not Military Thermal Imaging Equipment*, 12 February 2020, <https://www.azatutyun.am/a/30430770.html>. According to <https://www.e-register.am/am/companies/1283081>, Vardan Balayan, the founder of “Unicum Engineering” Ltd., is a Russian citizen.

³² Narek Kirakosyan, *Under Whose Rule ‘Patron Davo’ has Fraudulently Sold Arms to MoD for 1.83USD: NSS’s Scandalous Video Intrigue*, Factor, 1 February 2021, <https://factor.am/334040.html>

³³ NSS, *Announcement*, 1 February 2021, <https://www.sns.am/hy/hwnnnnnwqnnuajnnLnnnn/2021/02/01/hwnnnnnwqnnuajnnLnnnnLnnnn/545>; ArmeniaSputnik, “Patron Davo” Answered NSS, 2 February 2021, <https://armeniasputnik.am/armenia/20210202/26302951/patron-davon-patasxanel-e-aac-in.html>; Mkrtich Karapetyan, *Who Is the Producer of “Kalashnikov” in Armenia: From Supply of Weapons to Libya to Payments to Companies of Poroshenko*, Civilnet, 19 February 2019, <https://civilnet.am/news/189241>; Gayane Saribekyan, *NSS Arrested David Galstyan Based on Corrupt Armament Sale Deal*, Radio Liberty, 1 February 2021, <https://www.azatutyun.am/a/31080269.html>

acceptance of the goods. D. Abrahamyan agreed with the charges and was sentenced to 4 years of imprisonment.³⁴

What information could prevent this corruption risk?

1. The necessity of any goods, works and services, their compatibility and complementarity to other systems/items already in place shall be analyzed, justified and approved by a responsible authority, including a respective evidence for the approval.
2. Technical specifications of to-be-procured goods, works and services shall be developed in cooperation with the authority that will be using the specific armament, munition, service or work to ensure compatibility and complementarity.
3. Technical requirements of goods, works and services shall be clearly formulated and standardized to avoid misinterpretation, maneuvering and biased decision-making.
4. Procurement specifications for goods, works and services shall be published to the extent they are not in breach with the classification requirements, while in the latter cases there shall be clear justification for classification of specifications.
5. The *Law on Procurement* shall allow for and the government shall develop and publish the categories of items required for the national security that shall be procured exclusively by the state and exclusively from producers.



Red flag 2: The significant deviation of the agreed award price from the market value

Description

In certain instances, the procurement contracts might have a price that is significantly different from the market value of the goods, works and services. It is also possible that the price is increased over time - to purchase additional items or compensate costs for some contingency. A significant increase could indicate misuse and embezzlement of the public budget, kickbacks or payments to intermediaries.

The *Law on Procurement* includes some regulations to prevent prices that deviate from market value. According to the Law, the procuring entity shall assess the bids complying with the conditions provided in the invitation for bid and then shall give preference either to the proposal with the lowest price or to the proposal with the highest score - calculated with consideration of both the price and non-price criteria (Article 34, part 2, point 1 and 2).

According to the Law, the procuring entity can do single source procurement for goods, works and services from the same source as an extension to the initial contract (applied in case if because of "objectively unforeseen circumstances it become necessary for the performance of the initial contract"), however the price of the extension should not exceed 10% of the total

³⁴ Court decision, http://www.datalex.am/?app=AppCaseSearch&case_id=15481123719147107; RA DRA Investigative Committee, *D.Abrahamyan Charged with Abusing Power Which Caused Materially Grave Consequences; His Office Temporarily Stopped*, 18 May 2016, <https://www.investigative.am/en/news/view/davit-abrahamyan-mexadrang.html>

price of the initial contract. Purchase of an additional item from the same source can be carried out only once, and the price of additional goods may not be higher than that provided for by the contract (Article 23, part 1, point 3).

Legislation prohibits making changes in the contract through inflating the volumes of goods, works and services or unit costs of the purchased items or change of the contract price (Government Decision N526-N, point 56), though at the same time it defines some exceptions for single-source procurement with special or exclusive rights for items containing a state secret (Law Article 23, part 1.4, Government Decision 526-N point 56.2 and point 23.4.5).

The Sociological Study on Perceptions of Economic Competition among Businesses (2020) conducted by TIAC indicates that in procurement practices the winner's contract value can be lower than the price found in the market, which does provide competitive advantage to those suppliers. Such practice, however, could indicate purposeful dumping with an attempt to merely win the contract at any cost, to get domination in the market or an actual deceit, which might result in the delivery of the procured item with inappropriate quality.³⁵ Though the mentioned survey did not specify sectors, the highlighted problems can be also relevant to the procurement of defence-related items. Needless to add that the consequences of inappropriate quality of goods, works and services in the defence sector can be devastating for the national security and human lives.

The same reasoning may operate also during the acquisition of goods, works or services received at a cheaper price or free of charge from international suppliers acting through international partnership agreements, which, according to the Armenian Constitution (Article 5), prevail over the national legislation and might not necessarily follow the same procurement procedures. Such practice also has a risk of creating unjustified dependencies from foreign partners with own national interests and questionable expectations to pay back.

Specific 'red flag' warning signs

- It is not clear that the responsible government agency made an effort to have its own assessment of the value of the contract it is awarding;
- The government awards the contract on a single source basis, particularly when a competition would have been more appropriate, resulting in award value above market price;
- The procurement contract includes prices that deviate substantially from the market price and either are higher or lower;
- Contracts are signed with non-specialized or unqualified companies serving as intermediaries;
- Acquisition is based on preferential and/or unclear agreements;
- Supplier does not possess the required qualifications.

³⁵ TIAC and AM Partners, *Sociological Study on Perceptions of Economic Competition among Businesses*, Yerevan, 2020, <https://transparency.am/files/publications/1582712146-0-567954.pdf?v=4>, pages 57-58

Cases

In practice there have been revealed a number of cases when the contract price paid by the MoD has been significantly higher than the market value of the goods acquired, thus signaling possible corruption deals.

In January-February 2021, Alexander Sirunyan - the above-mentioned representative of "ORSIS ARMS" Ltd. - claimed that the MoD acquired the "Kornet" artillery system at USD 300,000, while the market price was USD 85,000-90,000.³⁶ He also highlighted the purchase of bulletproof vests costed USD 1,300 instead of USD 250.³⁷

In September 2019, Mane Tandilyan, the member of parliament (MP) from the oppositional "Bright Armenia" political party and the Head of the Standing Committee on Financial-Credit and Budgetary Affairs questioned the price of cement procured by the MoD from "Hydro Group" LLC for about USD 100 per ton (AMD 48,000), while, on 20 December 2018, the factory announced a reduction in the price of cement to AMD 40,000 per ton. The total overspending by the government appeared to be approximately USD 5,600 (~AMD 2.7 million). Tandilyan also claimed that it is suspicious that the MoD procured cement for about USD 330,000 (~AMD 150 million) from a company with only 2 employees,³⁸ which indicated that, instead of buying from the producer at lower prices, the MoD acquired cement from an "intermediary," a type of company that acts and earns its profit through being an agent in-between the state and producers or suppliers. It should be added that, the mentioned procurement was supposed to be a non-classified one and handled through a competitive tender. Meanwhile, the MoD said that it has reverted to single-source procurement because of the failure of Armepps.³⁹

In August 2019, the NSS announced the launch of an investigation into some procurement incident, according to which the MoD paid approximately USD 45,200 (~AMD 21.7 million) more than the market value for the goods acquired.⁴⁰ The NSS did not provide details about the goods acquired and future developments related to this investigation, however the published statement highlighted the problem of the excessive price paid, which resulted in the squandering of large volumes of funds.

³⁶ 1in.am, *MoD Extended USD 3.5 mln Loan to the Company of Patron Davo*, 1 February 2021, <https://www.1in.am/2895709.html>.

³⁷ Interview with Alexander Sirunyan, *I don't Know According to Which Case David Galstyan is Considered as Defendant, But Investigation Must Clarify Why Bulletproof that Worth USD250 Have Been Acquired at USD 1300*, ArmDaily, 19 January 2021, <https://armdaily.am/?p=123588&l=am>

³⁸ Armenia Sputnik, *MoD Acquired Cement at Apparently High Price. Tandilyan Sees Corruption Risks*, 11 September 2019, <https://armeniasputnik.am/armenia/20190911/20362923/pn-n-aknhayt-tank-gnov-cement-e-gnel-tandilyany-korupcion-risker-e-tesnum.html>; Aravot, *If the Process Had Been More Efficient, It Would Have Been Possible to Save 2.7 mln Drams. Mane Tandilyan about MoD Explanations Related to Acquisition of Cement*, 13 September 2019, <https://www.aravot.am/2019/09/13/1065583>; Hetq, *Mane Tandilyan Addressed MoD Procurements: the Ministry Signs Agreements with Construction Company That Has 2 Employees*, 11 September 2019, <https://hetq.am/hy/article/107233>; Panorama.am, *New Reverberation to Cement-Mlins-Tandilyan-MoD Discussion*, 13 September 2019, <https://www.panorama.am/am/news/2019/09/13/9tutitun-0wlnhjuu-ՊԼ/2166383>; FB page of Artsrun Hovhannisyan, *Answer to Mane Tandilyan*, 13 September 2019, https://www.facebook.com/arcrun/posts/2474781595890767?notif_id=1568383038766097¬if_t=notify_me

³⁹ Aravot, *If the Process Had Been More Efficient, It Would Have Been Possible to Save 2.7 mln Drams. Mane Tandilyan about MoD Explanations Related to Acquisition of Cement*, 13 September 2019, <https://www.aravot.am/2019/09/13/1065583>

⁴⁰ NSS, *Case of Embezzlement in Procurement Process for the RA Ministry of Defence Needs*, 21 August 2019, <https://www.sns.am/en/press-releases/2019/08/21/case-of-embezzlement-in-procurement-process-for-the-ra-ministry-of-defence-needs/177>

As mentioned earlier, in May 2019, “ORSIS ARMS” Ltd. won a tender to supply thermal imaging equipment to the MoD. “Unicum Engineering” Ltd., that sells the same product, submitted a complaint stating that the price of the equipment offered by “ORSIS” in the Russian market was about USD 5,000 (~RUR 330,000 or ~AMD 2.7 million), while it was offered to MoD for about USD 6,300 (~AMD 3.1 million).⁴¹ According to journalist investigations, the application of ORSIS was first rejected because of the incompleteness of the application package and the non-compliance to requirements. However, given that there was only one participant in the tender, the procurement was eventually cancelled.⁴² ORSIS brought the case to the court against the cancellation.⁴³

In February 2019, media sources revealed the high costs of meals for the military personnel outsourced by the MoD. The supplier companies were paid about USD 7.0-7.2 (~AMD 3,600) per item of meal while, according to prices at the most expensive supermarket in Yerevan, the estimated cost of a meal for each soldier should have been about USD 4.0-4.5 (~AMD 2,200) per day. While one should not eliminate the possibility that the MoD procurement price may also include preparation (cooking), transportation and other costs, the statement of higher prices, nevertheless, has not been dismissed by the MoD. Later, it was disclosed that one of the companies winning the tender – “Meditek” Ltd. is not specialized in the food business, but rather trades in medical equipment and facilities. In addition, one of the owners was revealed to be in close relations with the Minister of Defence, presenting a possible conflict of interest.⁴⁴

In May-June 2016, following the 4-day war in April of the same year, the Investigative Committee released information about bringing charges against Major-General Melsik Chilingaryan, Colonel Armen Margaryan and Colonel Mher Papyan for abusing their official positions resulting in “grave consequences,” as claimed. The abuse had allegedly taken place in the process of procurement of munitions: the contracted price of the procurement items was higher from the market value and/or the delivered items did not correspond to the requirements to meet the needs of the Armed Forces.⁴⁵ All three persons were detained as a pretrial measure, however M. Chilingaryan was released in a month because of health issues and transferred to military hospital.⁴⁶ Since then, there has been no information available about the proceeding of this case.

⁴¹ Narek Kirakosyan, “There Was a Criminal Behavior”: Who and Why Tried to Supply Hunting instead of Military Ammunition to MoD. New Details about ORSIS Affair, Factor, 4 November 2019, <https://factor.am/196539.html>

⁴² Seda Ghukasyan, There is an Official Investigation Going on in MoD, a Criminal Case is Opened: Details on the Terms of Failed Tender of Orsis, 9 September 2019, <https://hetq.am/hy/article/107093>

⁴³ Heggine Buniatyan, Russian Company ORSIS Arms has Applied to the Court Against the Ministry of Defence, Radio Liberty, 27 August 2019, <https://www.azatutyun.am/a/30130850.html>

⁴⁴ Mkrtich Karapetyan, New Procedure for Serving Food in the Army: One of Two Companies is Not from the Sector, Civilnet, 21 February 2019, <https://civilnet.am/news/189311>; Meditech Company Profile on Armenia Business Catalogues, <https://www.spyur.am/am/companies/meditech-group/2596>, <https://374.am/am/company/meditech>, <https://www.yell.am/վեդիտեք-բժշկական-սարքավորումներ-վաճառող-էվ-սպասարկող-ընկերություն-15713>

⁴⁵ RA Investigative Committee, Charges Pressed against Major-General Melsik Chilingaryan, Colonels Armen Margaryan and Mher Papyan for Abusing Power, 2 June 2016, <http://investigative.am/en/news/view/zinvorakanner-mexadranq.html>; Radio Liberty, General Melsik Chilingaryan and Two Colonels are Arrested, 31 May 2016, <https://www.youtube.com/watch?v=bO9gR5WRBvU>

⁴⁶ Hasmik Grigoryan, The Detention Measure of General Melsik Chilingaryan Had Been Changed, Radio Liberty, 29 June 2019, <https://www.azatutyun.am/a/27827958.html>

Procurement or “charity”?

As a member of Collective Security Treaty Organization (CSTO) and a strategic partner of Russian Federation, Armenia buys new weapons at Russian domestic prices - much lower than the market value. During 2015-2017, Russia provided USD 200 million loan to Armenia to purchase a number of arms, with the loan to be paid back, starting from 2018.

Such purchases do not go through the regular procurement processes and are not adequately overseen either. Yet there are corruption risks associated with this approach and the 44-day active war in the fall of 2020 revealed a number of those.

First, it appeared there were no rockets available for SU-30SM fighter aircraft earlier sold by Russia to Armenia. The assumptions for this deal were various, including that according to the timetable the rockets were planned to come at a later stage, and that actually there was a lack of intent to sell the rockets. Apparently, there has not been official explanation for this failure.

Second case evolved around the short-range ballistic missile system called “Iskander” - one of the major arms purchased by Armenia in 2016 as part of the preferential loan provided by Russia. Its usage during the 44-day aggression in Artsakh and effectiveness has become a major topic for discussions and controversies in Armenia, Azerbaijan and Russia. First, it appeared that this missile system has been provided to Armenia not for the protection of Armenian population in Artsakh, actually attacked by Azerbaijani and Turkish military forces. Second, it was revealed that the targeting system of Iskander cannot even be managed by Armenia and needs the engagement of Russia, as was explicitly stated by Russian officials at a session of Armenian-Russian cooperation platform – Lazarevski Club – in Moscow, in early December 2018.

Obviously, “there is no free lunch” and “the low-cost” acquisition by Armenia without due observation of procurement rules are eventually paid off by the country, including its rolling to a complete dependence from Russia. Given the intensive military buildup of oil-rich neighbor Azerbaijan, including with the weaponry sold by Russia, and the latter’s own interests and politics in the region have contributed to an extremely vulnerable situation for the Armenian statehood and the Armenians.

What information could prevent this corruption risk?

1. The MoD shall possess its ‘assessed value’ for the contract when advertising or inviting parties to tender, which shall be based on extensive desk/market research, and the government shall reveal its calculations in the tender process, in case the bidder offers an unjustified price.
2. The MoD shall revise its approach of low-cost acquisitions through international partnership agreements and apply stricter rules applicable for procurement of goods, works and services, including the outlining of technical specifications, terms of contract implementation, quality control, etc.
3. The Government and MoD shall conduct periodic analysis of Armenia’s procurement practices to exclude any dependence on or domination of any foreign state in respect with ensuring Armenia’s defence and national security.



Red flag 3: The selected contractor's beneficial owner linked to the MoD or a PEP

Description

Conflict of interest exists when an official in charge of decision-making or taking action is in a situation where there is incompatibility of official functions and private interests. There might be cases when a ministry enters into contractual relations with companies that have shareholders with relatives working for the MoD, particularly ones engaged in procurement operations, or have politically exposed persons (PEP) as legal shareholders or involved through other business relationships and decision-making powers within the company.

Although the appearance of a conflict of interest is not a definite sign of corruption, it does significantly heighten the risk that the official could use the entrusted power in ways that undermine the award's integrity or potential returns to the state. The more powerful the personal relation or more influential the PEP, the more likely could be his/her role in the weakening of built-in checks and balances. Also, there may be indirect channels, through which a MoD official or PEP may benefit through being connected to the supplier, e.g. through a third-party business relationship, such as a consultancy or a subcontract. Additionally, there might be an intermediate beneficiary, or an ultimate beneficial owner residing in a foreign country.

Generally, the entrepreneurial activities of high-ranking government officials are prohibited by the RA Constitution (Articles 95 for MPs, Article 124 for the President and Article 164 for judges), by the *Law on Public Service* (Article 31) and other related laws for different types of public services (for example, civil service, municipal service, tax service, etc.). However, in reality many officials do engage in businesses, oftentimes hiding behind their family members' or relatives' or friends' names.

In recent years, the *Law on Procurement* has been improved to meet international standards. In addition to setting the eligibility criteria that limit participation of company representatives that have been charged for a number of criminal acts (Article 6, part 1, point 3) and requiring to certify the absence of abuse of the dominant position and an anti-competitive agreement (Article 28, part 2, point 2a), the Law contains a number of provisions that aim to prevent actions and decision-making in a situation of conflict of interest. Particularly, it prohibits a member or the secretary of the evaluation commission to take part in the activities of the commission, where at the bid opening session it appears that any of the applicant companies are related to them (for example, founded by the officer, shares held by the officer, or founded by the person linked to the officer by kinship or in-law relationships, or shares held by that related person (Article 33, part 6)).

Members and the secretary of the commission shall sign a statement affirming the absence of a conflict of interest, which shall be published in the Official Procurement Bulletin on the first working day following the end of the bid opening session. When the member or the secretary of the evaluation commission appears in a conflict of interest situation, he/she shall recuse himself/herself from the procedure concerned immediately after the bid opening session (Article 33, point 7). The Law provides that by the end of the next working day following the

day of the bid opening the protocol of the bid opening session shall be published in the Official Procurement Bulletin (Article 33, point 8).

Additionally, the bidder should disclose data on the beneficial owners of the company (i.e. natural person (persons) – i.e. physical persons directly or indirectly holding more than 10% of the voting shares in a statutory capital of the company participating in the procurement process, including bearer shares, or the person (persons) entitled to appoint to or dismiss from office the members of executive body of the participating legal person, or receiving more than 15% of profit generated from entrepreneurial activities or other activities implemented by that legal person, and in case of absence - data on the head and members of the executive body. When the bidder is selected, the mentioned information shall be published in the Official Procurement Bulletin together with the notice regarding the decision on conclusion of a contract (Article 28, part 2, point 2b). Though the Law does not state clearly, for classified procurement this information might not be published.

Companies' beneficial ownership transparency is more widely regulated by the amendments to the *Law on the State Registration of Legal Entities, State Recording of Separate Divisions of the Legal Entities, Institutions and Individual Entrepreneurs*⁴⁷ and enforced through the companies' Electronic Register. In order to verify the accuracy of the exposed data, the same law also requires uncovering beneficial ownership of companies through signed declarations, wherever relevant (Article 26, part 22).

Currently, the access to the register of companies, free of charge, is provided only to media representatives, while for others the access to information costs AMD 3,000 per company. Lack of free access to data for citizens and non-governmental organizations restricts the possibility for public oversight and for revealing conflict of interest matters.

Additionally, the conflict of interest of the public officials may be revealed through the analysis of declarations of income, assets and interests, available on the website of the Corruption Prevention Commission for a wide scope of officials.

It is anticipated that all these state databases will be interconnected, so that it is easier to reveal the problematic issues, also using artificial intelligence algorithms.

Specific 'red flag' warning signs

1. The supplier has no prior relevant work experience, little or no industry reputation or name recognition or is an intermediary;
2. The company or individual does not have the basic qualifications - capabilities or assets needed to contribute, including personnel, finances, equipment or technical skills;
3. The company's finances are thin and it has submitted no or not adequate financial guarantees;

⁴⁷ RA Law on the State Registration of Legal Entities, State Recording of Separate Divisions of the Legal Entities, Institutions and Individual Entrepreneurs (2001) was amended on 23 April 2019 to include beneficial ownership transparency requirements.

4. The supplier's shareholder structure is complex (for example, includes a network of intermediary companies, nominee shareholders,⁴⁸ bearer shareholders, unissued shares or a trust⁴⁹), which hides the ultimate owner or beneficiary of the company;
5. The supplier engages a PEP or his/her firm as a consultant or service provider, as a third party not subject to declarations or requirements;
6. A legal shareholder of the selected company or a sub-contractor entitled to dividends or other share of its earnings is an MoD official, a close relative of the MoD official, a PEP or an associated person;
7. Beneficial owners are the friends or relatives of the official - the relationship that is not regulated by law, or foreign citizens and foreign/international PEPs - not disclosed through verification.

Cases

In recent years, there have been several high profile cases where conflict of interest appears to have influenced the defence procurement process.

During 2018-2019, Artur Galstyan, the Head of the Military-Topographic Department of Armed Forces organized three tenders in a sequence to buy several hundred units of navigation equipment. Though the first two tenders had announced winners, those have been annulled without due justification. The winner of the third tender was chosen to be "Geoshin Group," which was contracted to implement the bid worth AMD 30 million. As suspicions arose over the annulments, the MoD started internal investigations and revealed that the "Geoshin Group" was owned by the sister-in-law (sister of the wife) of A.Galstyan – sold to her by the father of A.Galstyan.⁵⁰

As mentioned earlier, in May 2019, "ORSIS ARMS" Ltd. won a contract to supply thermal imaging equipment, which was later cancelled. It was revealed that the company was established in April 2017 by the same Artur Galstyan, the Head of the Military-Topographic Department of Armed Forces, and Gevorg Manukyan, the former Head of the same department.⁵¹ A.Galstyan and G.Manukyan appeared to have special access to President Serj Sargsyan and Minister of Defence Vigen Sargsyan – introducing to them the management team of "Promtechnologia" corporation, the parent company of ORSIS ARMS. In June 2019, a month after the mentioned tender was cancelled, A.Galstyan transferred his 50% shares to the wife of representative of "ORSIS ARMS" Sirunyan – Vergine Sargsyan.⁵²

⁴⁸Corporate records may explicitly identify the individual as a nominee, or he/she may exhibit common characteristics of nominee, for instance being a shareholder or director in numerous other entities; working for a law firm, corporate services firm or other business that specializes in creating shell companies or managing private wealth.

⁴⁹A list of shareholders for the company, whether contained in a corporate filing or some other official document, that does not fully account for all of the company's issued shares, or the company's shareholder structure includes a significant block of authorized but unissued shares. In some, though certainly not all cases, this could raise suspicions that the company is holding the block of shares in reserve for a PEP.

⁵⁰According to www.e-register.am, "Geoshin Group" Ltd was established by Zhorzhik Galstyan, <https://www.e-register.am/am/companies/1211899>

⁵¹Arshaluys Mghdesyan, *Why Did the Ministry of Defence Cancel the Tender Won by Russian Company ORSIS Arms*, Civilnet, 4 November 2019, <https://civilnet.am/news/194699>; Aravot, *MoD Colonel Was Told to Resign*, "Zhoghovurd", 13 November 2019, <https://www.aravot.am/2019/11/13/1077628/>

⁵²Narek Kirakosyan, *"There Was a Criminal Behavior": Who and Why Tried to Supply Hunting instead of Military Ammunition to MoD. New Details about ORSIS Affair*, Factor, 4 November 2019, <https://factor.am/196539.html>

It should also be noted that “ORSIS ARMS” Ltd. was the representative of Russian “ORSIS” in Armenia - a company associated with the family of Dmitri Rogozin, the former Deputy Prime Minister of Russia.⁵³ In his claims, Sirunyan mentioned that ORSIS took part in the bid upon the request of the MoD.⁵⁴ Interestingly, following the ORSIS ARMS application to the court regarding the cancellation of the tender,⁵⁵ in February 2021, the Bankruptcy Court of Armenia launched a proceeding for liquidation of “Unicum Engineering” – the competitor of ORSIS company.⁵⁶

In February 2021, the NSS announced the arrest of David Galstyan (known as “Patron (bullet Davo”), the former advisor to the former Minister of Defense, who also led a company “Mosston Engineering” Ltd. - engaged in the trade of arms and munitions - for supplying low quality artillery shells that failed to comply with requirements specified in the tender contract.⁵⁷ The NSS did not specify whether any official from the MoD has been charged for the acceptance of the procured shells during the contract completion stage.

Sirunyan, the representative of “ORSIS ARMS”, has claimed that D.Galstyan had been engaged in a number of other controversial procurement deals.⁵⁸ He also stated that the MoD extended a concessional loan (at 0% interest rate) to Galstyan’s company.⁵⁹ Law enforcement agencies did not reveal much about the investigation of this issue and it is not clear whether the loan was given using competitive procedures, or what was set in the contract regarding the loan.

As mentioned earlier, there have been accusations posed against then Minister of Defence Davit Tonoyan for grand embezzlement in connection with D.Galstyan’s deals.

What information could prevent this corruption risk?

1. Beneficial ownership of companies, prescribed by the Armenian legislation, shall be fully disclosed and the accessibility of this information free of charge for all interested persons in order to facilitate the independent verification of the exposed data.

⁵³ Organized Crime and Corruption Reporting Project, *Sons of the Fatherland: Work for Own People*, 26 June 2018, <https://www.occrp.org/en/investigations/8252-secret-deals-undermined-tech-firm-working-for-russian-military>

⁵⁴ Sargis Harutiunyan, *MoD: There are Suspicious That the Russian Company Had an Intention to Supply Hunting, Not Military Equipment*, 12 February 2020, <https://www.azatutyun.am/a/30430770.html>

⁵⁵ Hetq, *MoD Initiated Internal Investigation. Criminal Case is Initiated: Details about Terms of Canceled Tender of ORSIS*, 9 September 2019, <https://hetq.am/hy/article/107093>

⁵⁶ RA Official Announcements Website, *Announcement on Launching Termination Proceeding for “Unicum Engineering” Ltd.*, 4 February 2021, <https://www.azdarar.am/announcements/org/46/00812398/>

⁵⁷ NSS, *Announcement*, 1 February 2021, <https://www.sns.am/hy/hayraghrtutyun/2021/02/01/hayraghrtutyun-untsuulinye/545>; Gayane Saribekyan, *NSS Arrested David Galstyan for Corrupt Case of Weapons Trade*, 1 February 2021, <https://www.azatutyun.am/a/31080269.html>; Armenia Sputnik, *“Patron Davo” replied to NSS*, 2 February 2021, <https://armeniasputnik.am/armenia/20210202/26302951/patron-davon-patasxanel-e-aac-in.html>; Mkrtich Karapetyan, *Who Is the Producer of “Kalashnikov” in Armenia: From Supply of Weapons to Libya to Payments to Companies of Poroshenko*, Civilnet, 19 February 2019, <https://civilnet.am/news/189241>

⁵⁸ Interview with Alexander Sirunyan, *I don’t Know According to Which Case David Galstyan is Considered as Defendant, But Investigation Must Clarify Why Bulletproof that Worth USD250 Have Been Acquired at USD 1300*, ArmDaily, 19 January 2021, <https://armdaily.am/?p=123588&l=am>

⁵⁹ 1in.am, *MoD Gave a Loan of USD 3.5 mln to the Company Owned by Patron Davo*, 1 February 2021, https://www.youtube.com/watch?v=BB9bM_ZmKc

2. No company shall be permitted to take part in a tender and contract without having ensured its current beneficial ownership information is published, including information about of foreign ownership.
3. Include in the bid evaluation protocols a statement of presence/absence of conflict of interest of members of the evaluation committee and the coordinator of the bid as well as a statement on acknowledgement of any relation to a PEP, MoD official or their family by the participants of the bid, including the respective names.
4. Oversight functions of MoD shall be strengthened for verification of information declared by the bidding companies as well as by members and secretary of the commission at least through providing access to the Electronic Register of companies and Asset and Income Declarations databases.
5. Details of enforcement of relevant legislation, such as how many companies have been excluded from a bidding process due to incomplete beneficial ownership information, shall be published to increase the trust in the functioning of laws.



Red flag 4: Ineffective planning and non-formal acquisitions

Description

There are obvious problems with the planning of military procurement in Armenia, which became particularly visible during the 2020 war in Artsakh.

Bad planning generally leads to unrevealed needs and uncovered gaps, which may seriously affect the quality of the military service and eventually - the defence of the country and its population. Theoretically, inventory gaps could be covered through the mobilized efforts of citizens, especially in a country, like Armenia, where the army is predominantly based on conscription of young men (with some elements of contract-based professional army). It is also not extraordinary to accept citizens' support to the Army in times of war. Nevertheless, it is important to generally acknowledge that the reliance on citizen ad-hoc donations and in-kind contributions is an indicator of bad planning. Acquisition of goods, works and services should normally be based on the needs assessment and derive from the sectoral strategies, programs and activities. Also, acquisition of items from outside of the procurement system creates its own corruption risks and problems.

The practice of donations and contributions raises a number of questions - on how the information about the needs and priorities is revealed or leaked, how the acquisition process is carried out, how the new assets are documented and managed, and what are the motivations of "donors". Sometimes, it may also be unclear how individuals or non-state parties acquire military equipment, transport it to Armenia, pass foreign and Armenian customs and deliver to the Armed forces.

For example, some donations might raise questions regarding the effectiveness of enforcement of legislation regulating state and official secrets. It is particularly uncertain through what channels “donors” learn what items are needed for the army, if the defence plans are not public. Additionally, if the acquisition does not go through official procurement processes, how is the quality of acquired items assessed? Or how do items get recorded in the inventory and maintained? Or how is this information shared with the oversight and audit authorities?

The lack of transparency around donations provides individuals and organizations with the opportunity to abuse the entrusted power, e.g. in the process of creating an inventory of or managing the acquired items. As the practice of other state and local government institutions in Armenia indicate, along with charities in the form of donations and financial contributions, the “donors” might expect favors in return.⁶⁰ Another risk is that the donations might not reach their destination and serve the purpose they have been announced for.

Armenian legislation does not have specific regulations regarding donations and contributions to the state authorities, including the army, and the above-mentioned questions mostly remain unanswered. Given with secrecy clauses, acquisitions related to national security and defence outside of the procurement system appear to be particularly questionable.

Specific ‘red flag’ warning signs

- There are open calls by external parties to collect donations or contribute to the purchase of certain (both classified and non-classified) goods, works, services for the Armed Forces;
- Open calls for donations are vague and do not contain clear technical specifications, nor is it clear that any needs assessment has been undertaken for the goods, works or services requested;
- There are donations of equipment or other (both classified and non-classified) items to the army, for which there have not been prior tenders;
- Procurement plans or announcements do not correspond to the national security or defence strategy;
- Tenders are not published sufficiently far in advance or are advertised for very short periods of time.

Cases

Some anecdotal evidence from the 44-day aggression in Artsakh have put in question the quality of planning in defence procurement.

Since the spring of 2019, the MoD made certain attempts to procure thermal imaging equipment. Failure to complete the purchase seemed to result in the shortage of this

⁶⁰ In other sectors there have been cases when the “donors” acquired construction and mining permits from the recipient institutions.

equipment during the war along with many other items, and there were cases when citizens were buying those in order to correct the problem and meet the needs of the army.⁶¹

Also, during the 44-day aggression there was a public campaign by some individuals aimed at purchasing tents and bullet-proof-vests for military personnel. Though such needs of the Army were officially rejected by the MoD representatives, the actual stories from the frontline and persons related to the soldiers proved that the claims on the needs of the Army were valid.

It should be noted that public donations did not take place only during the wartime. In 2015, mass media reported about donation of binoculars to soldiers serving on the line of contact, which was organized by some representatives of the Armenian show-business.⁶² Again, it was unclear how the need was revealed, on what basis the donors chose to buy binoculars and not something else, and whether the donated items satisfied the needed quality.

What information could prevent this corruption risk?

1. Procurement plans shall be developed on the basis of the national security and/or defence strategy.
2. Any calls for donations of items or financial contributions, whenever needed, shall be done by the MoD itself.
3. For non-classified items, the MoD shall publish information about all donations (gifts) and items acquired through financial contributions of physical and legal persons. The information shall be updated regularly and shall include, at minimum:
 - Name of the individual or organization (including foreign) providing the gift;
 - Country of origin (or headquarters) of the individual or organization providing the gift;
 - Details of the gift or donation, including the number of units, market value and date received, proof/agreement of acceptance;
 - Information on how the supplier has learnt about the defence needs and priorities;
 - Procedure to handle goods, works and services provided by donors, including details of how those were acquired, included in the inventory and used/managed.
4. MoD shall maintain all records related to donations of classified and non-classified items and ensure their accessibility for the oversight by the parliament and the Audit Chamber.

⁶¹ Interview with Mikayel Nahapetyan, *Why the Reservists Were Not Familiar with Modern Warfare, Communication Equipment and Why the Citizens Were Buying Thermal Imaging Equipment?*, Irates, 24 November 2020, <http://www.irates.am/hy/1606163445>

⁶² Interview with Mels Chilingaryan, Interview with the Head of Armament Department of Armed Forces of the Republic of Armenia, *Patriotism Is the Strongest Weapon*, Armenian Soldier Journal, 10 September 2015, <http://www.hayzinvor.am/33706.html>

CONCLUSION AND RECOMMENDATIONS

The integrity of defence and security institutions, the transparency and accountability of defence-related decision-making, including the procurement, stands high on the agenda of the Armenian public, especially after the war of 2020.

Corruption risks revealed in this report can be mitigated by increasing the transparency of data and procedures as described below, as well as strengthening general oversight procedures, detailed further in Annex to the document.

Increasing the transparency of data and procedures

Adequate volume of publicly available and timely information will allow the defence authorities to operate in an open and transparent manner. And hence, MoD or other relevant entities should routinely publish sets of data that will reveal and/or reduce specific risks during the procurement cycle.

1. The necessity of any goods, works and services, their compatibility and complementarity to other systems/items already in place shall be analyzed, justified and approved by a responsible authority, including a respective evidence for the approval.
2. Technical specifications of to-be-procured goods, works and services shall be developed in cooperation with the authority that will be using the specific armament, munition, service or work to ensure compatibility and complementarity.
3. Technical requirements of goods, works and services shall be clearly formulated and standardized to avoid misinterpretation, maneuvering and biased decision-making.
4. Procurement specifications for goods, works and services shall be published to the extent they are not in breach with the classification requirements, while in the latter cases there shall be clear justification for classification of specifications.
5. The *Law on Procurement* shall allow for and the government shall develop and publish the categories of items required for the national security that shall be procured exclusively by the state and exclusively from producers.
6. The MoD shall possess its 'assessed value' for the contract when advertising or inviting parties to tender, which shall be based on extensive desk/market research, and the government shall reveal its calculations in the tender process, in case the bidder offers an unjustified price.
7. The MoD shall revise its approach of low-cost acquisitions through international partnership agreements and apply stricter rules applicable for procurement of goods, works and services, including the outlining of technical specifications, terms of contract implementation, quality control, etc.
8. The Government and MoD shall conduct periodic analysis of Armenia's procurement practices to exclude any dependence on or domination of any foreign state in respect with ensuring Armenia's defence and national security.
9. Beneficial ownership of companies, prescribed by the Armenian legislation, shall be fully disclosed and offered accessibility, free of charge, for all the interested persons (including procurement officers) in order to facilitate the independent verification of the exposed data.

10. No company shall be permitted to take part in a tender and contract without having ensured its current beneficial ownership information is published, including information about another state's ownership.
11. Include in the bid evaluation protocols a statement of presence/absence of conflict of interest of members of the evaluation committee and the coordinator of the bid - based on advance signed declarations, as well as a statement on acknowledgement of any relation to a PEP, MoD official or their family, including the respective names.
12. Oversight functions of the MoD shall be strengthened for verification of information declared by the bidding companies as well as by members and secretary of the commission at least through providing access to the Electronic Register of companies and Asset and Income Declarations databases.
13. Details of enforcement of relevant legislation, such as how many companies have been excluded from a bidding process due to incomplete beneficial ownership information, shall be published to increase the trust in the functioning of laws.
14. Procurement plans shall be developed on the basis of the national security and/or defence strategy.
15. Any calls for donations of items or financial contributions, whenever needed, shall be done by the MoD itself.
16. For non-classified items, the MoD shall publish information about all donations (gifts) and items acquired through financial contributions of physical and legal persons. The information shall be updated regularly and shall include, at minimum:
 - Name of the individual or organization (including foreign) providing the gift;
 - Country of origin (or headquarters) of the individual or organization providing the gift;
 - Details of the gift or donation, including the number of units, market value and date received, proof/agreement of acceptance;
 - Information on how the supplier has learnt about the defence needs and priorities;
 - Procedure to handle goods, works and services provided by donors, including details of how those were acquired, included in the inventory and used/managed.
17. MoD shall maintain all records related to donations of classified and non-classified items and ensure their accessibility for the oversight by the parliament and the Audit Chamber.

Revising information classification requirements

The most critical issue for ensuring implementation of the above-stated recommendations remains to be the classification of information, oftentimes used in a discretionary manner and affecting the general integrity of defence sector procurement. In this regard:

1. The Government of Armenia shall clarify the criteria for differentiation of three categories of classification of information under the *Law on State and Official Secrets*, for example to determine the importance or the possible damage to the national security to be caused by the disclosure of information in order to prevent abuse of classification of data.

2. For non-classified procurement, the signed contracts and any revised contracts shall be published on the general electronic procurement platform or by the MoD on its website, noting any agreed changes in price, delivery time and post-tender award changes in terms and conditions.
3. For classified items the MoD shall keep the same records and share those with oversight and auditing authorities.
4. Together with budget execution reports there shall be mechanisms for the MoD to share national security sensitive procurement data and contracts with independent, internal and external oversight/audit agencies, such as the Internal Audit Unit and the parliamentary committee, and all of them normally shall have access to national security related procurement data.
5. The MoD shall publish all national security sensitive procurement data and contracts once the classification period has expired, where in certain cases of grave violations it would also be possible to launch criminal prosecutions.

Addressing other enabling factors

Research additionally revealed a number of enabling factors that along with the identified 'red flags' contribute to the corruption risks in defence procurement. These include:

1. The Armenian electronic procurement system Armepps is not always functioning properly and has been down for substantial periods of time. As a consequence some purchase operations have been delayed, while others are done through a manual process or switched to single-source procurement.⁶³

It is recommended that the failures of the electronic procurement system are investigated and resolved by the Ministry of Finance in a timely manner - publishing the results of the investigation in order to ensure prevention of such problems. Meanwhile, the MoD shall publish details of contracts concluded outside of Armepps when it is not functioning.

2. Classification of a significant scope of data does not allow us to understand the volume and quality of the oversight of internal and external institutions. Internal control reports are not publicly available and oversight by the Chamber of Audit is not visible. For example, there is information about two sessions in 2018 and 2019 that mentioned the plans to conduct an audit in the defence sector, however there is no data provided about this in the 2018 and 2019 annual reports. There is information, without any date on a report, about the oversight of procurement, generation and spending of extra-budgetary funds, however it does not clarify the link with the above mentioned plans. While other sectors can be controlled through the public oversight, classification of a large volume of defence procurement leaves the sector out of control.⁶⁴

⁶³ Aravot, *If the Process Had Been More Efficient, It Would Have Been Possible to Save 2.7 mln Drams. Mane Tandilyan about MoD Explanations Related to Acquisition of Cement*, 13 September 2019, <https://www.aravot.am/2019/09/13/1065583>

⁶⁴ RA Audit Chamber, *Audit Chamber Has Held Its Ordinary Session*, 9 July 2019, <https://armsai.am/hy/content/hw24t6pluh-yawjawn-hetgnawln-lyhuu-t-wnglywntj-4>; RA Audit Chamber Decision, 7 February 2019, <http://armsai.am/files/decrees/2019/voroshum2.1.pdf>; *Audit Chamber Has Held a Session*, 3 September 2018, <https://armsai.am/hy/nist03.09>

Along with measures aimed at ensuring the effectiveness of oversight of defence procurement, it is important to assure that the public is able to judge the quality of work of oversight institutions. The MoD shall publish information on its procurement process and the authorities responsible for oversight at each stage.

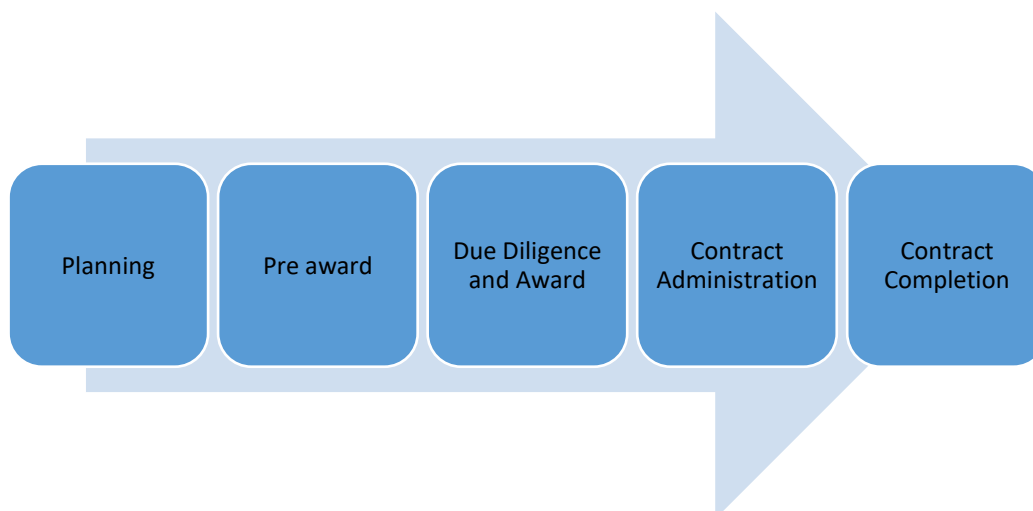
3. As the GDI and the researched cases show, parliamentary control of defence procurement is not effective or sufficient. In addition, the Constitution and the laws do not allow for a larger scope of jurisdiction for the parliamentarians nor for the defence or other sectors.

It is important that the scope is extended whenever possible to allow for a much wider, thorough and more proactive approach to oversight. It may, for example, allow the access of the chair and one representative of the opposition to all the procurement related documentation (including justifications, plans, contracts, international deals, donations, etc.) and in case of revealing any problems they will have to organize hearings to elaborate ways for solutions of identified problems.

It is important that RA Government, MoD, Parliament's Standing Committee on Defence and Security, National Security Council and other relevant state and non-governmental actors take the advantage of the GDI results and study the best practices of other countries across the globe to advance Armenia's performance on various critical targets to ensure better planning, clarify data classification, strengthen parliamentary oversight, etc.

ANNEX: Questions for each stage of the procurement cycle to control the process⁶⁵

This section offers questions that could be posed by procurement officials, law enforcement agencies, civil society organizations and oversight bodies at relevant stages of the defence procurement cycle, including the planning, pre-award, due diligence and award, contract administration/implementation and contract completion/acceptance – that would help to improve procurement procedures and strengthen the oversight.



Planning Stage

- Was this procurement planned and is it in line with the national defence and security strategy (if there is one)? If this procurement is not in line with the strategy or plans, does this appear to be an ad hoc expenditure and, if so, is it fully justified as an emergency or other legitimate reason?
- Who is demanding/pushing for the procurement of the goods or services – the government, the MoD unit, the supplier, a politically exposed person, other?
- Does the MoD really need these goods, services or works? Is the need justified properly? Are these goods, services or works compatible with other hardware and software possessed by MoD and do they complement the capabilities of the Armed Forces?
- Is the acquisition coordinated and integrated, through a comprehensive plan, for fulfilling an MoD need in a timely manner and at a reasonable cost?

Competition Stage

- Who developed the scope of goods, services and works to be acquired and the technical requirements of the contract? How precise and detailed are the specifications?
- Is the scope and requirements objectively justifiable, and have these been verified and checked by another unit?
- Does the person who developed the scope of goods, services and works have a conflict of interest?

⁶⁵ This Annex is based on Transparency International Defence and Security and Transparency International Ukraine's *Six Red Flags: The Most Frequent Corruption Risks in Ukraine's Defence Procurement* Report, section "How to reform internal and external controls: questions for each stage of the procurement process," 2018, https://www.transparency.org.uk/sites/default/files/pdf/publications/Ukraine_Six_Red_Flags_Eng.pdf, pp. 27-29

- Does the scope and requirements permit the maximum amount of competition (i.e., was it very narrowly defined as to favor one contractor and exclude all others?), or too vague (hindering bidders)?
- Has the MoD advertised the solicitation to the fullest extent possible? How long will the solicitation be open?
- If the acquisition is a commercial item or service, is there a genuine commercial market for the good or service?
- Is the order unnecessarily large or urgent and does it exclude other or smaller competitors?
- Was proper market research performed to ascertain how many providers offer which products / services, delivery timescales and the market price?
- Is the MoD appropriately leveraging its buying power? (i.e. is a bulk order more appropriate than frequent small orders? Is the bulk order competitively priced compared to the market?)
- Are contract requirements bundled resulting in limited or no genuine competition? What is the appropriate length of the contract? A longer duration can save time and resources by reducing how often the tender is advertised, but an unnecessarily long duration favors one company and may be uncompetitive.

Due Diligence and Award

- What was the justification if something other than full and open competition was used?
- Are there any conflicts of interest (personal or organizational) that might bias the award of the contract (for example, is the revolving door an issue?)
- Have all of the bidders undergone a comprehensive performance and responsibility review?
- How is the contract being financed by the winning company, i.e. through a loan?
- Was a pre-award audit performed to verify bidders' projected costs and overhead rate?
- Have prime contractors submitted a subcontracting plan? How many subcontractors and how many levels of subcontractors will be used by the prime contractor?
- Are details such as address, directors, beneficial owners and operational experience, available on subcontractors?
- How many bids were received? A low number of bids in a competitive environment is cause for further scrutiny.
- Does the MoD have prior experience with the bidders? Is there evaluation of past engagements?
- Did the selected contractor genuinely offer the "best value" contract? Is there any possible dumping (underbidding) that results in unreasonably low price and may affect the quality of goods, services or works and may endanger the capability of Armed Forces to perform its duties?
- Was the contract awarded to a responsible contractor (i.e. a company with a satisfactory performance and business-ethics record)?
- Were any appeals or bid protests filed with the MoD or a relevant appeals agency?
- Are the beneficial owners and all those who will profit from the contract clearly identifiable? Are there any links to the MoD, Government officials or to politically exposed people?
- Have they made large donations to the ruling party, or are they well-connected?

- Did the bidder provide timely, accurate, and complete cost or pricing data to the MoD?
Did the bidder properly allocate all the costs?

Contract Administration Stage

- Does the government have proper mechanisms to provide oversight of the contract?
- Does a security-cleared internal and external audit body and parliamentary committee have access to all documents?
- Is the contractor complying with government oversight requests?
- Has the scope of work, requirements, or financial terms been modified and if so, why?
- Has the contract been definitive (a contract with agreed upon terms, specifications, and prices)?
- Is the contract progressing on time and has it remained on budget?
- Are the costs or prices identifiable, allowable, allocable, and reasonable?
- Is the government receiving the supplies or services for which it contracted?
- What are possible termination outlets for the contract?
- How is the contract being financed?
- Are contract fees appropriate (especially award, incentive, or performance fees)?
- Is the contractor paying its subcontractors?
- Have any conflicts of interest (personal or organizational) arisen that might bias the performance of the contract?
- Have any complaints been made to a relevant agency?

Contract Completion

- Was the contract completed on time and on budget?
- Is the contracting file up-to-date and accurate?
- Were performance appraisals completed—and accurate?
- Has the contractor accomplished all contract requirements? Who has verified this?
- Would the government choose to contract with the contractor again, is there a record of performance to share?
- Has the contract been audited, and if so, are there any audit reports that indicate fraud, waste, or abuse?
- Are there questioned or unsupported costs?
- Has the government graded contractor performance accurately?
- Does the official in charge of the acceptance of goods, works or services have necessary knowledge, experience and qualifications?
- Does the MoD have the proper mechanism for checking the quality of goods, storing them securely and properly, disbursing the goods to the MoD unit using them?

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