

## PUBLIC PROCUREMENT MONITORING IN BOSNIA AND HERZEGOVINA: MAIN ACTORS, OPPORTUNITIES AND CONSTRAINTS

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The economic and societal importance of public procurement, as well as the risk of corruption, make public procurement monitoring particularly important. However, the public procurement monitoring system in Bosnia and Herzegovina is only partially developed. Its functioning is hampered by limited access to relevant information, lack of resources of key public institutions that are tasked with monitoring functions – the Public Procurement Agency and the audit offices – and limited capacities of civil society organizations to undertake independent monitoring of the public procurement system.

### EXECUTIVE SUMMARY

### 1. INTRODUCTION

Public procurement accounts for a significant portion of any country's GDP – on average about 15 to 30 percent – and overall government public spending,<sup>i</sup> making its efficiency and performance an important issue for any state. Public procurement also happens to be a field that is particularly prone to corruption and fraud,<sup>ii</sup> which has direct economic effects such as high costs of poor quality procurement, procurement of goods, services and works that are not economically justified or based on real needs, and delivery of products that entail security and other risks for the population.<sup>iii</sup> In Bosnia and Herzegovina (hereafter: BiH), public institutions at different levels of government also spend significant amount of funds for public procurement contracts.<sup>iv</sup>

The economic and societal importance of public procurement, as well as the risk of corruption<sup>v</sup>, make monitoring of public procurement particularly salient, with the aim of improving the efficacy and

transparency of the system in general. For example, the EU Public Procurement Directive, adopted in 2014, states that “member States shall ensure implementation of this Directive by effective, available and transparent mechanisms”<sup>vi</sup>. In Article 121, the same Directive prescribes monitoring as a crucial way to gain insight into the structural problems of national procurement policy, and the publication of its results. It is up to individual states to decide which form of monitoring they prefer – ex-post controls based on a sample, or systematic ex-ante controls of the entire system. The Directive remains vague on the question of sanctions, suggesting that it is not necessary that monitoring results necessarily bring irregularities in front of courts, only that “it should be possible to bring potential problems to the attention of the proper bodies.”<sup>vii</sup>

The Law on Public Procurement of Bosnia and Herzegovina, adopted in 2014, mandates two institutions – the Public Procurement Agency (hereafter: PPA) and the Procurement Review Body, with the



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obligation to monitor the implementation of public procurement legislation in BiH. In addition to these bodies, several other institutions in BiH, such as audit offices and internal control organs, as well as civil society organizations also perform a monitoring function.

This policy brief seeks to assess the current public procurement monitoring system in BiH, examine the main functions, challenges and constraints in the monitoring of public procurement processes, as well as to explore the role of different actors in this field, including governmental institutions and non-governmental organizations.

To that end, this policy brief reviews relevant concepts and main principles of public procurement monitoring, as well as international standards and comparative practices. For the purpose of analyzing the current legal and institutional framework for monitoring in BiH, several sources have been consulted, including laws and bylaws regulating the monitoring of public procurement in BiH, reports by relevant institutions in this field, as well as observations and comments from representatives of public institutions and the business sector in BiH articulated at an expert debate on the subject, organized in May 2016. As a result, specific recommendations as to how the current public procurement monitoring system in BiH can be bolstered are provided.

## 2. PUBLIC PROCUREMENT MONITORING: THE CONCEPT AND ITS RELEVANCE

According to a policy brief on public procurement monitoring, published by the joint OECD and EU *Support for Improvement in Governance and Management* (SIGMA) initiative, the role of monitoring is to assess whether defined policy objectives or targets are being met.<sup>viii</sup>

Monitoring has preventative, educative, and disciplinary functions, and is generally the responsibility of Public Procurement Agencies, which oversee the public procurement system. However, review boards, audit offices, civil society, and the private sector have a role to play as safeguards as well. The monitoring system serves as a check which works to improve the system of public procurement and render it more accountable and efficient. Eventually, the results of the monitoring can be forwarded to prosecutors' offices and courts for further investigation, making monitoring an important tool in detecting and processing potential irregularities and violations in public procurement.

Monitoring can take on a variety of forms, including the collection, analysis, and dissemination of data.<sup>ix</sup> Given the high percentage of public spending that public procurement occupies, the sort of insight gathered from monitoring can provide not only crucial information for policy-making but also increase the transparency of the public procurement system as a whole. In that sense, monitoring is meant to uphold and confirm internationally-accepted principles for integrity in public procurement, such as transparency, accountability, non-discrimination, and economy and efficiency (i.e. cost-effectiveness).<sup>x</sup> When the exercise of monitoring is repeated and its results are compared to those from previous years, it can provide important information on state of affairs in the public procurement system and how the system may eventually be improved.

SIGMA identifies three main types of monitoring:

- An audit of compliance is meant to ensure that the laws and regulations on public procurement processes has been applied properly in procedural terms, and is most often done by Public Procurement Agencies on the state level.

- Performance evaluation or measurement focuses on measuring whether or not the public procurement system has fulfilled its own objectives in the sense of efficiency, effectiveness, transparency and other set criteria, in all phases of the process - from the pre-tender phase to implementation. This, in turn, requires analyzing set indicators to be able to evaluate procurement processes. As such, it can be conducted at the level of the entire system, at the level of contracting authority or an individual contract.
- Policy-compliance monitoring compares results to the stated policy objectives of public institutions – for example in terms of specific policy goals such as environmental or social responsibility.<sup>xi</sup>
- bidders' complaints,
- contract-splitting to avoid competition,
- unusual bidding patterns as a sign of collusive bidding,
- apparently inflated agent fees (for brokers),
- suspicious bidders (e.g. entities that are not legitimate),
- lowest bid not being selected, which may point to bid rigging,
- repeated awards to the same contractor,
- changes in the terms and value of contract,
- multiple change orders to contract after signing,
- poor quality goods, works or services.<sup>xv</sup>

However, in order to be able to conduct monitoring in the first place, a number of preconditions need to be met, such as consistent policy goals and objectives of the public procurement system, which enable monitors to compare their results with previous ones; the availability of reliable data on public procurement<sup>xii</sup>; relevant skills and resources for monitoring; and official support and guidance from the government and public procurement institutions, which can make the task of monitoring both easier and more effective.<sup>xiii</sup>

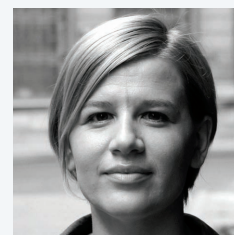
Besides compliance and performance, specific focus of monitoring efforts – especially by external actors - may be placed on detecting fraud and corruption. For example, identifying *red flags* is one of the tools that helps institutions and organizations to draw attention to irregularities, fraud, mismanagement and corruption in public procurement. Different sources point out to various red flags in public procurement which they consider as being strongly predictive of irregularities or corruption<sup>xiv</sup>. According to the World Bank, for instance, the most common red flags of corruption in public procurement are:

### 3. MAIN ACTORS IN PUBLIC PROCUREMENT MONITORING

Many different actors, such as public procurement offices, review bodies, statistical offices, contracting authorities, economic operators, audit offices and non-governmental organizations can have a role in public procurement monitoring.<sup>xvi</sup> Table 1 presents the types of actors that may be involved in monitoring of public procurement and their roles.

### 4. MONITORING PUBLIC PROCUREMENT IN BIH: MAIN ACTORS AND THEIR ROLES

The public procurement system in BiH is regulated by the Public Procurement Law, adopted in 2014 as part of wider public procurement reform and harmonization of domestic legislation with EU regulations (*acquis communautaire*). This law also defines the mandate of the two institutions, the Public Procurement Agency of BiH and the Procurement Review Body, responsible for monitoring of the implementation of the law and bylaws. In this section, the role and monitoring practices of these institutions, as well as other



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Table 1. *Actors that may be involved in public procurement monitoring*

Type of actors	Role in monitoring of public procurement
Public procurement agencies (offices, authorities)	The public procurement agency is a public body usually tasked to monitor the compliance with public procurement law by the contracting authorities. These agencies may also collect and analyze information on policy compliance or conduct performance evaluation.
Review bodies	Procurement review bodies do not do systematic monitoring – instead, their role is to review complaints by bidders about perceived irregularities in the procurement process. However, decisions on these complaints are important tools in identifying the violations of the law, potential cases of corruption and trends and developments in the public procurement system.
State audit offices	Audits by state organs are meant to go beyond a mere assessment of financial accuracy and legal compliance and to examine the work of public institutions in terms of effectiveness, efficiency and integrity in managing public funds.
Contracting authorities	Public institutions also do their own internal audits and controls in order to ensure accountability and prevent mismanagement of public fund. Internal controls serve to monitor budget spending according to intended purposes and real needs.
Statistical offices	Statistical offices may collect information which can be of use to monitors and identify trends in public procurement.
Economic operators	Companies, in particular those who are potential bidders or contractors in public tenders, also have a role to play in monitoring, usually through appeals to relevant review bodies.
Civil society (NGOs, academia, media, citizens)	Civil society organizations may provide external control to the public procurement process. Monitoring can be manifested in various ways, whether through integrity pacts (monitoring agreements between CSOs and contracting authorities), independent CSO monitoring, incorporation of civil society actors into the government oversight of public procurement, etc.

Sources: SIGMA, “Monitoring of Public Procurement,” Public Procurement Brief 27, OECD; Maxime Agator, “Overview of principles of monitoring and challenging public procurement contracts,” Transparency International Anti-Corruption Helpdesk

actors such as audit offices, internal controls, and civil society in monitoring public procurement will be analyzed.

#### 4.1. Public Procurement Agency

The Public Procurement Agency (hereafter: PPA) is the central administrative body for public procurement, whose main role is to ensure the proper implementation of the laws and bylaws in this field.<sup>xvii</sup> To that end, PPA has been mandated with several tasks, including drafting legisla-

tion, developing manuals, instructions, standard templates and models for public procurement implementation, providing technical and advisory assistance to participants in public procurement, organizing trainings and developing an e-procurement system.

One of the main tasks of the PPA is monitoring public procurement procedures and collecting, analyzing and publishing information on public procurement procedures and contracts.<sup>xviii</sup> The aim of

monitoring, as it has been defined by the Public Procurement Law, is to educate the participants of public procurement procedures and eliminate the irregularities that have been observed in the monitoring process<sup>xix</sup>.

The PPA conducts monitoring based on the rules and procedures defined in the Rulebook on Monitoring Public Procurement, which was adopted in 2008 and amended in 2010. According to this document, the PPA monitors the legal compliance of the public procurement procedures<sup>xx</sup> carried out by the contracting bodies in BiH. The PPA's current Rulebook on Monitoring Public Procurement puts forth seven sources of information for monitoring:

- a. Public procurement notices published in the Official Gazette and in daily newspapers
- b. Reports on procurement submitted to the PPA by contracting authorities, in accordance with the Law
- c. Decisions of the Procurement Review Body
- d. Reports of the Auditor's office of BiH
- e. Letters from contracting authorities and bidders to the PPA
- f. Letters from other competent authorities (inspection, police, courts, prosecutors, etc.)
- g. Information from the media.<sup>xxi</sup>

Based on these sources, the PPA selects their monitoring sample using the following criteria: an estimated high value of the public procurement procedure, the seriousness of any irregularities brought to their attention (i.e. if not in line with the proper use of public funds, fair competition, equal treatment and transparency), or if there are connections between the current procurement procedure and previous ones, or any repeated irregularities by the contracting authorities.<sup>xxii</sup> They also do monitoring per request of bidders or other actors in case of identified irregularities.

If in the course of monitoring the PPA finds irregularities in the public procurement procedure, it immediately informs the contracting authority, which is obliged to act upon the recommendations of the PPA to eliminate the irregularity and comply with the law. If the contracting authority fails to remedy the observed deficiencies, the case is forwarded to the audit office. The results of the monitoring are compiled and published in an annual monitoring report, which is submitted to the Council of Ministers of BiH. The PPA also prepares an annual report on public procurement contracts, based on the reports received from contracting authorities that concluded these contracts.<sup>xxiii</sup>

The monitoring process by the PPA has significantly contributed to improving the public procurement practice in BiH<sup>xxiv</sup>, but it also falls short on many different aspects of the monitoring function.

The monitoring conducted by the PPA is mostly based on legal compliance of *public procurement procedures*. Other aspects of the monitoring that would enable a broader assessment of the *public procurement system*<sup>xxv</sup> are missing. In other words, the PPA observes potential irregularities in a particular public procurement procedure, but fails to point to the trends in public procurement that would be relevant for policy making.<sup>xxvi</sup> This hampers the ability of the PPA to set policy goals or offer alternatives to existing practices.<sup>xxvii</sup>

In particular, as performance measurement is not emphasized by the current monitoring system, there are no pre-defined indicators that are determined in the mentioned rulebook or annual reports that would allow for the evaluation of the performance at the system, contracting authority or individual contract level. This curtails the ability of the agency to assess the extent to which public procurement procedures respond to the principles of transparency, non-discrimination, fair and active competition and the efficient use



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of public funds, as defined by the Law on Public Procurement.<sup>xxxviii</sup>

One reason why public procurement monitoring in BiH does not entirely fulfill its function is the lack of preconditions for monitoring to be successful in the first place.<sup>xxxix</sup> The lack of human resources is cited by the PPA as the main reason for the lack of broader and more detailed monitoring of the public procurement system in BiH.<sup>xxx</sup> According to the information from the PPA, only nine people in the Agency are covering a variety of tasks, including monitoring, drafting laws and amendments, as well as bylaws and model documentation, compiling annual reports on public procurement, providing advisory and technical support to the stakeholders in the public procurement process and organizing training.<sup>xxxi</sup> Their limited capacities were further diminished by a freeze in new hires.<sup>xxxii</sup> Enhancing monitoring of procurement by the PPA is also recommended by the EU's 2015 progress report for Bosnia and Herzegovina.<sup>xxxiii</sup> The EU progress report warned that this monitoring role "is limited and should be strengthened to enable it to identify potential weaknesses and irregularities."<sup>xxxiv</sup>

Specifically, the PPA has so far monitored only one phase of public procurement, and that is the public procurement procedure which consists of publication of public procurement calls, evaluating bids and contract awards. The pre-tender phase, which consists of planning and budgeting public procurement as well as the post-tender phase, during which public procurement contracts are implemented, are not subject to monitoring by the PPA. Thus, a more holistic monitoring of the entire public procurement process (pre-tender, tender, and post-tender phase) is not performed.

More comprehensive monitoring is made difficult by a lack of accessible information. Although contracting authorities ought to annually publish procurement

plans for each public procurement process they undertake in line with the law, they are not obliged to publish these plans on the main public procurement portal. SIGMA has warned that in practice, access to information about contracting authorities' procurement plans was complicated by the lack of a centralized database of procurement plans.<sup>xxxv</sup> Likewise, information on the realization of the public procurement contracts is also not published on the public procurement portal. Instead, by the law, these types of information should be published on the websites of over 2000 contracting authorities, which significantly limits their accessibility.<sup>xxxvi</sup>

A lack of data is also reflected in the annual report of contract awards. The PPA relies on contracting authorities to send in their reports for monitoring purposes, which does not always occur. Moreover, the PPA's 2014 monitoring report stated that a large number of contracting authorities were still not registered in the WisPPA application, through which reports on public procurement processes may be sent: in 2014, about 78% of contracting authorities were registered on the WisPPA platform, which made it difficult to obtain precise statistical data about the entire public procurement process in BiH.<sup>xxxvii</sup>

Some of the deficiencies in the monitoring process have been addressed by a new Monitoring Rulebook for Public Procurement which has been updated to be in line with the new Public Procurement Law.<sup>xxxviii</sup> The new rulebook has taken into consideration the European Commission's recommendations in its 2015 Progress Report for BiH, as well as a report by the Finance Ministry's central unit for internal audit of institutions of BiH. The latter recommends that the PPA precisely define the responsibilities to prepare, process, and archive data related to monitoring, define the procedure of proper information reporting, rules related to documenting

and reporting on monitoring, and establish systematic documenting of all facts related to monitoring, which would make analysis much easier.<sup>xxxix</sup>

The new rulebook also stresses the PPA's preventive and educational function, prescribing a yearly report on the most common mistakes or irregularities based on its own monitoring and auditors' reports, as well as training on public procurement for contracting authorities. The new rulebook suggests the creation of a group for monitoring within the PPA, which would entail three positions – a leader, expert, and assistant – and be responsible for all monitoring of public procurement. Last but not least, the new rulebook provides basis for more comprehensive monitoring of the entire public procurement process, starting from the planning until the contract implementation phase. In comparison to the previous rulebook, the newly proposed rulebook adds public procurement plans and contract implementation reports as new sources for monitoring. However, the monitoring of the pre-tender and post-tender phase is only to be done upon the request of bidders, contract authorities and other stakeholder, such as civil society organizations and the media.<sup>xi</sup>

Although the new rulebook points to important improvements in monitoring practices, such as more capacities for monitoring within the PPA and new sources for monitoring, this document has not yet been adopted. As a result, the rulebook for monitoring from 2008, which was adopted to monitor the old and now obsolete Public Procurement Law, is still being used.

#### 4.2. Procurement Review Body

The Procurement Review Body (hereafter: PRB) is an independent institution whose main task it is to review complaints by tenderers in public procurement procedures. As pointed above, procurement review bodies in general do not play a major role in monitoring of the public

procurement system, but rather decide upon complaints by bidders. However, the appeals from the bidders and decisions by the PRB may provide useful information about the current state of the public procurement system. In this way, valuable information can be obtained about possible problems with legislation on procurement or the actual implementation of procurement rules. For that reason, it is important that decisions by the public procurement bodies are published and available to the public, in order for public procurement monitors to be able to make use of this information. This is particularly needed BiH, where there is a large number of filed complaints.<sup>xii</sup>

The lack of transparency of the PRB's work in BiH has often been criticized by civil society organizations.<sup>xiii</sup> The PRB first started to publish decisions on complaints by bidders in December 2010, but shortly after, in April 2011, the publication of the decisions was stopped due to a lack of financial resources.<sup>xiii</sup> After the new Public Procurement Law prescribed mandatory publication of decisions and a cooperation agreement was signed between the PRB and PPA, decisions on complaints had been published on the public procurement portal as of January 2015.<sup>xiv</sup> Nevertheless, in 2016, the publication of PRB decisions was suspended again,<sup>xiv</sup> which not only limits transparency of the review process and monitoring efforts, but also directly violates the law.

#### 4.3. Audit offices

Audits are carried out by the state-level Audit Office of the Institutions of BiH, as well as audit offices of the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District. These institutions mainly oversee financial compliance of governmental institutions, but also do performance audits, which theoretically ought to be a final check on the entire public procurement system. However, the audit offices both on the state and entity

level “apply a risk-based approach as part of their annual audit plans because the levels of staff are below authorized levels, resulting in reduced coverage for mandatory audits.”<sup>xlvi</sup> In 2013, the audit offices issued 203 reports altogether, 195 of which were about financial irregularities, mainly inefficiency, biased tender documentation, lack of proper tender evaluation, poor contract management, etc.<sup>xlvii</sup> Moreover, audit offices face a very low level of implantation of their recommendations – in 2013, for instance, only 32% of their recommendations regarding irregularities was adopted.<sup>xlviii</sup>

#### 4.4. Internal Controls

Contracting authorities play a role in public procurement monitoring through internal controls and review procedures, whose aim is to ensure sound management of public funds. In Bosnia and Herzegovina, several laws mandate putting in place a proper internal control mechanism in public institutions.<sup>xlix</sup> However, internal controls in some public institutions have not been set up yet.<sup>l</sup> In addition, even if the institutions do have internal controls established, their role in the monitoring of public procurement processes is rather weak<sup>li</sup> when it comes to overseeing the implementation of public procurement contracts, which leaves the system vulnerable to different irregularities which may occur in the post-tender phase (e.g. illegal amendments to the original contract or change of prices or deadlines for the delivery or completion of works).

#### 4.5. Civil society and Other Actors

BiH has a rather low level of CSO involvement in public procurement. When it comes to monitoring of public procurement in BiH, civil society organizations are primarily focused on the monitoring for corruption in specific public procurement procedures<sup>lii</sup> and collecting and publishing data on public procurement<sup>liii</sup>. Generally speaking, the CSO monitoring

of public procurement project-based, limited by a lack of available data, and generally lacking in official state support.

BiH authorities have not taken concrete steps to incorporate civil society in public procurement processes. Interestingly, the proposed new Monitoring Rulebook has added three new sources of information to rely upon, but monitoring reports published by CSOs are not taken into consideration as a source of information that the PPA ought to take into account in its own reports.

The only support provided for CSO monitoring in BiH is through projects funded by international donors. Such monitoring activities are often short-term, project-driven, and not adequately connected to the official monitoring system of public procurement processes.

The impact of CSO monitoring of public procurement is further limited by the difficulties in obtaining relevant information and data. As was outlined earlier, it is unnecessarily difficult to obtain certain types of information, which often remain unpublished on the central portal for public procurement, and are often missing from the websites of individual public institutions. For example, much of public contracting in BiH occurs without public notices (as they fall under a certain price threshold), and information on these contracts is thus not published.<sup>liv</sup> Moreover, the Procurement Review Body regularly fails to publish its decisions on complaints. Such a restricted access to relevant information significantly limits the ability of CSO to monitor the public procurement system in the country.

In general, the ability of CSOs to act as a powerful external check on public procurement accountability is restricted, although there is potential among some existing CSOs to become more active partners in public procurement monitoring on a wider basis.



Besides CSOs, private sector actors, i.e., companies and bidders that partake in public procurement processes, may also play a role in monitoring. In 2014, for instance, 11 complaints were submitted to the PPA by companies, mainly about overly high administrative prices for applying for tenders, overly broad or overly narrow technical specifications, and other irregularities.<sup>lv</sup> However, many private actors are demotivated to submit complaints or report irregularities due to high costs and a perceived lack of consequences.<sup>lvi</sup>

## 5. CONCLUSION AND RECOMMENDATIONS

The ability of both BiH state institutions and other organizations to effectively monitor the public procurement process is limited. The current monitoring landscape can be assessed as incomplete and hindered by a number of issues, leading to the inability of both the PPA and external monitors to adequately perform their function.

The PPA, which should be the primary actor in establishing a functioning monitoring system, is hampered by a set of constraints such as limited capacities to carry out monitoring, focus on legal compliance in the monitoring process, lack of data and lack of new regulation that would follow the new Public Procurement Law.

The failure of the Procurement Review Body to adhere to the law and regularly publish its decisions, and the limited capacities of audit offices, further undermines the efforts to establish an efficient monitoring system.

The main barrier to more rigorous external controls from civil society are limited resources that depend on *ad-hoc* donor support, lack of access to data, but also the absence of adequate support and inclusion in the system of public procurement monitoring on behalf of the state

and authorities responsible for public procurement.

Hence, more institutional and political support is needed for both the PPA's role to be bolstered and for CSOs and the private sector to play an active role in filling the PPA's gaps and blind spots in monitoring.

The following recommendations are provided with the aim of strengthening and broadening monitoring capacities of public procurement system in BiH:

- *The new Monitoring Rulebook should be adopted, but with inclusion of provisions that emphasize the use of CSOs reports and findings in official monitoring reports and activities of the PPA.*
- *The new Rulebook should also include policy compliance and performance evaluation and measurement as objectives of the public procurement monitoring.*
- *All necessary steps must be undertaken in order to allow for greater access to information and data required for effective monitoring.* This includes, but is not limited to, the introduction of mandatory publication of all public procurement plans and contract implementation reports on the public procurement portal, regular publication of decisions of the Procurement Review Body, and mandatory publication on awarded lower value contracts on the public procurement portal.
- *It is of utmost importance that those institutions, which are the pillars of the public procurement monitoring system, such as the PPA, the Procurement Review Body and the audit offices, are given adequate resources to perform their functions properly.* The benefits would by far outstrip the costs of much needed resources. This in particular relates to the provision of adequate staffing for audit offices, and the creation of the specialized monitoring team within the PPA.

- *It is necessary to, according to the existing laws, establish internal controls in public institutions where these mechanisms are missing, as well as to increase their role in monitoring public procurement, especially the post-tender phase during which the realization of contracts takes place.*
- *Last but not least, authorities should seek ways to more organically integrate the CSOs into the public procurement monitoring system. This may involve giving grants and other kinds of funding to civil society organi-*

zations which do public procurement monitoring.<sup>lvii</sup> This sort of step would allow for a more robust monitoring system, and would also empower CSOs to do monitoring work on a regular, rather than project basis. Other possible measures may include putting more emphases on direct involvement of CSOs in monitoring specific public procurement contracts, for example through the popularization of integrity pacts, i.e. monitoring agreements between CSOs and contracting authorities.

#### Endnotes

i United Nations Office on Drugs and Crime (UNODC), *Guidebook on Anti-Corruption in Public Procurement and the Management of Public Finances* (Vienna: UNODC, 2013), p. 1. Organisation for Economic Cooperation and Development (OECD), *OECD Principles for Integrity in Public Procurement* (Paris: OECD, 2009), p. 9.

ii Ase Berit Grodeland and Aadne Aasland, "Fighting Corruption in Public Procurement in Post-Communist States: Obstacles and Solutions," *Communist and Post-Communist Studies* 44, no. 1 (2011), p. 17.

iii UNODC, *Guidebook on Anti-Corruption in Public Procurement and the Management of Public Finances*, p. 9.; Nermina Voloder, *Transparency of Public Procurement in Bosnia and Herzegovina: Between Theory and Practice* (Sarajevo: Analitika - Center for Social Research, 2015), p. 8.

iv The value of public procurement contracts in 2013 and 2014 amounted to 2.7 billion BAM, and the year before it was 3.5 billion BAM. Public Procurement Agency of BiH, *Godišnji izvještaj o zaključenim ugovorima u postupcima javnih nabavki u 2013. godini* [Annual Report on Public Procurement Contracts in 2013] (Mostar: Public Procurement Agency of BiH, 2014), p. 15; Public Procurement Agency of BiH, *Godišnji izvještaj o zaključenim ugovorima u postupcima javnih nabavki u 2014. godini* [Annual Report on Public Procurement Contracts in 2014] (Sarajevo: Public Procurement Agency of BiH, 2015), p. 25.

v See more: United Nations Office on Drugs and Crime (UNODC), *Business, Corruption and Crime in the Western Balkans: The Impact of Bribery and Other Crime on Private Enterprise* (Vienna:

UNODC, 2013); Nermina Voloder, *Mapping of Key Obstacles to Equal Participation of Private Companies in Public Procurement in Bosnia and Herzegovina* (Sarajevo: Analitika – Centre for Social Research, 2015).

vi "Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on Public Procurement and Repealing Directive 2004/18/EC," *Official Journal of the European Union* L 94/65, 28. 3. 2014, art. 81. <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024&from=EN> (Accessed on May 28, 2016).

vii *Ibid*, art. 121.

viii Support for Improvement in Governance and Management (SIGMA), *Monitoring of Public Procurement, Public Procurement Brief 27* (OECD, 2013), p. 2. [http://www.oecd-ilibrary.org/governance/monitoring-of-public-procurement\\_5js4vmn81lhb-en](http://www.oecd-ilibrary.org/governance/monitoring-of-public-procurement_5js4vmn81lhb-en) (Accessed on May 29, 2016).

ix *Ibid*, p. 2-3.

x Maxime Agator, "Overview of Principles of Monitoring and Challenging Public Procurement Contracts", in *Transparency International Anti-Corruption Helpdesk* (Transparency International, 2013), p. 4.

xi *Ibid*, p. 5-9.

xii For example, performance evaluation of public procurement (e.g. how efficient, effective, fair or transparent it is) may require a host of information, including information on the frequency of (published) procedures, the monetary value of contracts, frequency of complaints in relation to total number of procurement procedures, etc.

- xiii SIGMA, *Monitoring of Public Procurement*, p. 5.
- xiv See for example: Transparency International Hungary, K-Monitor Public Benefit Organization, PetaByte Nonprofit Research, *Red Flags Project: New Warning System for the Identification of Red Flags in Public Procurements* (Budapest: Transparency International Hungary, K-Monitor, 2015), <http://www.redflags.eu/files/redflags-summary-en.pdf> (Accessed on May 16, 2016); also see: PwC EU Services and Ecorys, *Public Procurement: Costs We Pay for Corruption: Identifying and Reducing Corruption in Public Procurement in the EU* (European Commission, 2013), [https://ec.europa.eu/anti-fraud/sites/antifraud/files/docs/body/pwc\\_olaf\\_study\\_en.pdf](https://ec.europa.eu/anti-fraud/sites/antifraud/files/docs/body/pwc_olaf_study_en.pdf) (Accessed on May 16, 2016).
- xv World Bank, "Most Common Red Flags of Fraud and Corruption in Procurement", [http://siteresources.worldbank.org/EXTGOVANTICORR/Resources/3035863-1281627136986/Most\\_Common\\_Red\\_Flag.pdf](http://siteresources.worldbank.org/EXTGOVANTICORR/Resources/3035863-1281627136986/Most_Common_Red_Flag.pdf) (Accessed on May 14, 2016).
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