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| **Worksheet for Analysis of Case Studies on Procurement Monitoring, including PTF-supported and other Case Studies** |
| **General Information**  **1. Name and Geographic Location of Implementing Organization**  Transparency International Latvia (DELNA) supported by PTF  **2. Overall Goal of Program:**  Improve efficiency and transparency by monitoring, under an Integrity Pact (IP),the entire procurement cycle through construction of the Latvia National Library (NLL) (initially the goal included two more similar projects which were later abandoned due to lack of financing)  **3. Specific Objective(s) of Project:**   * Put an Integrity Pact in place and organize a public information campaign to increase awareness of IP * Monitor and advice on design of procurement process, * Monitor and advice on contract awards * Monitor construction   **4. Program design**  The program stands out from other PTF projects in several ways :   * It extends over a 9 year period and includes three separate PTF funded   projects.   * DELNA had an exceptional access to information and was able to participate in and influence most meetings and actors because it was a party to the Integrity Pact (IP) * DELNA became involved in and adviced on highly technical matters well beyond what has been the case in most PTF funded projects   **5. Main Target Audience of Activity:**   * The Government of Latvia ,Latvian civil society,international donors and banks   **6. Time Period:**   * 2005 – 2014 (PTF support only 2006-2011)   **7. Public Sector Counterpart:**   * The Ministry of Culture (MOC) * The ‘Three Brothers Agency’ (3B) The managing entity under MOC (dissolved in 2009) * Hill International (HI) The construction supervisor contracted by the government.   **7. Amount of Funding and Main Funding Organization:**   * $ 95,730, from Partnership for Transparency Fund (PTF) in three separate projects 2006,2008 and 2010. |
| **Awareness Raising**  Contrary to most PTF projects, public information/awareness raising/civil society engagement was not the primary objective of the three PTF funded projects. Instead the projects focused on monitoring procurement and construction and improving outcomes in real time. Because of the size and prominence of the construction project, the work of DELNA and PTF, which DELNA ensured was widely published in Latvia, has no doubt helped raise general awareness among the public of procurement mismanagement and corruption. |
| **Commitment by Government and Contractors**  By signing an Integrity Pact and sticking to it the Latvian government demonstrated a commitment to efficient and transparent procurement. Failure to achieve these objectives uncovered at various points in the bidding, award and execution process was mostly due to lack of administrative, management and procurement skills in the Ministry of Culture in charge of the project, financial constraints and possible attempts by contractors to circumvent the rules. The commitment of the Latvian government was not in doubt.  DELNA has concluded that construction management and supervision was done in accordance with national legislation and at high standards compared to national industry average. DELNA also concluded that petty and medium scale corruption, if at all present, was not a significant problem because of a functioning multi-level management and control system.  DELNA did however leave open whether flaws in the main construction contract were the result of lack of experience and professionalism among the government officials negotiating the contract or of high level corruption or both. This matter has not been resolved in spite of the fact that a report, triggered by DELNA, drawing attention to the problem by the State Audit Office asked for an investigation. This may in itself be a sign that corruption was present in negotiating the contract.  There was unfortunately a lapse in PTF funding in 2007/2008 while the main contract was negotiated. DELNA lacked resources during this period to monitor contract negotiations as closely as would have been desirable  With regard to the main contractor, NACC, DELNA has concluded that it implemented the Anti-Corruption Declaration it had signed but did not require compliance by subcontractors nor did it educate subcontractors on the significance and meaning of the Declaration and on how to comply. |
| **Enabling Environment for improving Procurement Monitoring**  An adequate legal and regulatory environment for procurement was in place but the experience how to apply laws and regulations was not always there among the bodies involved in the project. Political maneuvering in parliament at times made it difficult to apply laws and regulations and raised questions about what laws and regulations were in effect and how they should be interpreted  The Ministry of Culture responsible for implementing the project lacked any experience of procurement and contracting, which negatively impacted implementation in the early years. |
| **Consultation, Participation, Negotiation**  Thanks to the Integrity Pact DELNA’s access and influence was exceptional. DELNA monitored decisions of the MOC staff at all levels, participated in meetings internally and with 3rd parties. It was able to: clarify unclear actions and decisions and question decisions in writing and orally; pursue any 3rd party complaints (including those in the media and public space); analyze documentation prepared by all project parties from a good governance and anti-corruption perspective, relying on external construction, legal and other experts when necessary.  The only real restriction as to DELNA’s (and Government’s) access to information was with regard to subcontracts on which, as a result of a flaw the in main construction contract, the general contractor was not required to provide information As subcontracts amounted to 80% of the main contract amount this reduced transparency significantly. |
| The Role of PTF and its advisers  PTF played the usual management and advisory role reviewing and commenting on project proposals and progress reports. Significant improvements were made in both design and implementation as a result. The three project proposals and final reports prepared by DELNA with inputs from PTF are attached  PTF and PTF/TI adviser Michael Wiehen in particular played an important role in getting the Transparency Pact in place. Mr Wiehen,for instance, provided training to a number of people which later were instrumental in drafting, negotiating and implementing the IP. Mr Wiehen’s evaluation at the completion of the first project, which includes copies if the IP agreement and the Anti-corruption Declaration, is attached.  Unlike in many other less technical PTF funded projects PTF also made a significant contribution to upgrade the technical competence of DELNA and, through DELNA, the government implementing agencies. PTF financing allowed DELNA to hire three local technical consultants. In addition PTF provided the services of a pro-bono adviser, David Cook, under a PTF Terms of Reference. Mr Cook was instrumental both by providing his own advice and in selecting and guiding the three local consultants. For example, Mr.Cook introduced the concept of Value Engineering to DELNA and the MOC which became a guiding principle in managing costs and increasing efficiency in the execution of the project. Other PTF advisers also contributed to the terms of references for the three consultants and in guiding them  DELNA, supported by most government officials, has stated that without PTF advice its capacity to review and analyze highly technical documents and make its voice heard with contractors, Hill International (the construction supervisor) and even the government implementing agencies, would have been greatly impaired Quoting from a DELNA report to PTF: David Cook *“provided several important contributions to the project.*  *Firstly, allowing the new [DELNA] project coordinator to orient himself in a construction project that had already well advanced.*  *Secondly, providing independent and outside [ expert opinion] on the state of not only NLL construction, but also capacity of the construction supervisor (evaluated as very good) and the MOC staff (evaluated as problematic). MOC and the NACC [the contractor] held talks about the specific contractual changes due to decrease of project funds in late 2009. The process reached a major milestone on April 16 [2009] when agreement was reached between the ministry and the main contractor on the cost of project prolongation to 2012 and to 2014. The presence [of David Cook] in negotiations allowed Delna to subsequently report in an informed way about the NLL project at the Steering Committee (SC), parliament, and when meeting international donors. David’s presence significantly eased comprehension of issues that mixed construction and financial aspects, where the national expert’s knowledge was not as appropriate.*  *Thirdly, Mr. Cook’s visits allowed Delna to define priority areas faster than would otherwise be possible”.*  A local technical adviser funded by PTF participated in the oversight of the NLL project management, supervision and construction process. The purpose of this work was to assure DELNA of the soundness of the MOC, NACC and HI procedures, particularly quantity surveying and activities where petty corruption could arise, and keep DELNA updated of the compliance of MOC practices with the construction legislation.  .  . |
| **Role of DELNA and impact of project**  DELNA’s access to decision makers and day to day involvement in the National Library project was impressive even on a world scale compared to similar CSO monitoring efforts. Through extensive review and comment on documents lobbying/public information and participation in meetings( including bid opening and review) with MOC, Hill International, bidders, contractors, the project steering committee and many other bodies, including parliament, DELNA and its advisers had a major impact in areas such as:   * + Putting the Integrity Pact and Anti-Corruption declarations in place and getting them signed,   + establishing procedures for controlling corruption and getting them adopted by the National Union of Construction Companies (the contractor);   + strengthening the managerial and professional capacity of the state contracting authority;   + making the bidding and award process more transparent and efficient.   + Identifying significant problems in the national anti-corruption framework, most importantly, arbitrary implementation of the State Audit Office law.   + Preparations for legal action to initiate investigation of Cabinet of Ministers and MOC decisions of 2007 and 2008 that lead to a construction contract against state interests and severely limiting its rights in managing the project and negotiating with the contractor.   + Participating in analyzing scenarios for continuing the construction of the National library with reduced financing and evaluating the risks of such scenarios particularly from a transparency point of view;   + ensuring transparency of negotiations on amendments in the construction contract;   + pointing out flaws in the construction contract including on transparency of sub-contractors;   + providing technical expertise to the Furniture, Fittings and Equipment FF&E) project and preparation of recommendations for improvement before its procurement   + ensuring easy available and understandable information to the broader public about the NLL procurement and construction process.   + Facilitating informed decisions by Latvia’s international donors concerning funding for the project amidst a major economic crisis.   Government officials have almost unanimously confirmed the valuable role played by DELNA  There is a differing view, particularly from Hill International (HI), that DELNA was still not well prepared to get involved in complex procurement and construction matters and therefore caused delays and confusion which did not contribute to transparency and efficiency. Others have expressed a view that the IP raised the cost of the project as the lowest bidder, an Estonian contractor, was excluded because of its refusal to sign the the Anti-Corruption Declaration.  The Latvian government did not agree with either of these views.  Due to PTF’s own declining funding base PTF was unable to fund DELNA through the completion of the project in 2014. This no doubt reduced DELNA’s capacity to monitor the project. However, under the 2nd PTF project DELNA made important contributions to the revisions to the project, budget and construction contract that took place in 2009. Under the 3rd PTF project continued DELNA monitoring in 2010 helped ensure that the project was set on a good course to be completed on time and on (revised) budget in 2014. Unlike many other government projects in Latvia this project was completed without accusations of major corruption and mismanagement. Being the largest single government project since independence this is in itself remarkable and unquestionably partly a result of the IP and DELNA’s involvement. |
| **Sustainability: Institutionalize Monitoring Process**  DELNA, assisted by PTF, has contributed to the establishment of a project management structure at the MOC that is now equipped to manage large projects and negotiate with and supervise contractors such as the National Association of Construction Companies (NACC) which built the main part of the National Library project.  The experience and assistance received also contributed to strengthen the Government’s overall capacity to plan and implement large scale projects in a transparent way under an Integrity Pact.  DELNA’s capacity to monitor procurement particularly the technical aspects was greatly enhanced through this program. How sustainable this enhanced capacity is will depend on the availability of continued funding for DELNA,a critical element in the sustainability of any CSO. |
| **Lessons for PTF**  The principal lessons are that buy-in from the government- for a project of this kind a formal IP- is needed for success as well as partnering with open-minded CSOs interested in learning from others, including those coming from different backgrounds and experiences. PTF needs to assess at the outset whether the intended CSO partner will be operating in such frame of mind. If not PTF involvement is highly unlikely to be productive.  DELNA was the ideal partner in this respect. Initially its contributions were mostly in the area of public information and raising public awareness based a body of common civil society engagement tools and international practices. However, even if DELNA did not have the technical qualifications to monitor a project of this scale and complexity it was a fast learner and ready to listen. DELNA also was generally experienced in monitoring with many well qualified staff. It took a long term perspective as demonstrated by its 11 year commitment to the project in spite of occasional funding difficulties. DELNA was also politically astute and well connected, pragmatic without missing the broad perspective and losing sight of the ultimate objectives. It therefore stands out among CSOs in Eastern Europe and the former Soviet Union CSOs and represents the gold standard PTF should be looking for in a partner.  Another important lesson is that, even though PTF prides itself of being an expert on how to engage civil society, because the nature and success of such engagement depends so much on the local institutional, political and cultural context PTF may in the end have as much to contribute to a partner CSO in technical fields such as procurement. This is not to say that PTF does not have a role in civil society development particularly in helping to transfer experiences among CSOs world-wide and use PTF’s own experience to lobby the world community for funding and other support for CSOs involved in the struggle for more transparency.  Finally, PTF’s management, general advisory and intermediary/networking contributions were valuable, as recognized by DELNA, even though their impact is more difficult to assess than that of PTF’s technical contributions. PTF needs to do a better job identifying these contributions and point out their value to donors, CSOs and others who often tend not to understand and fully appreciate these contributions. After all the main skill of most PTF advisers, whether they come from the World Bank or not, is to develop strategies and projects and manage tasks and the teams working on these tasks. |
| **Lessons Learned from the Latvia Case for Ukraine CSO Procurement Monitoring training**  All general lessons above are relevant. The Latvia program did not include formal CSO training and is therefore not providing experience in how to organize and conduct such training. The Latvia program provided PTF with a wealth of experience on how to manage and advise on CSO monitoring of a large procurement and construction program. It did not, however, include other types of CSO procurement monitoring. Specifically the kind of monitoring envisaged in Ukraine: CSOs using data from a sophisticated E-procurement system to flag issues and monitor procurement over a range of small, medium and large project, was not done in Latvia. |