

## **BRIEF ANALYTICAL REPORT**

*based on the results of an internal analysis of corruption risks  
in the activities of Technical Monitoring Department*

In December 2021, the Compliance Control Service of Kazakhstan Housing Company Joint Stock Company (the Company, Single Operator) conducted an internal analysis of corruption risks in the activities of Technical Monitoring Department (TMD) in terms of concluding an agreement with engineering companies (IC) and analyzing their reports.

During the internal analysis of corruption risks, a number of problems were identified related to imperfect and nontransparent procedures for selecting IC, broad discretionary powers of responsible persons, allowing them to make decisions at their discretion.

All this can negatively affect the effectiveness of TMD and lead to realization of corruption and rehearsal risks.

### ***Procedure for concluding an agreement with IC***

In accordance with subparagraph 3, paragraph 2 of Article 26 of the Law of the Republic of Kazakhstan "On Co-Funding of Housing Construction" (the Law), the Single operator is obliged to conclude a contract with the IC to ensure control over the progress of construction, compliance with state standards, as well as the targeted use of funds in accordance with design and estimate documentation.

According to the Company's internal rules, the authorized company (AC) independently selects the IC, while the rules or other documents do not regulate the selection procedure, which creates conditions for AC to randomly select the IC in order to benefit.

As a result, only a few large IC provided technical supervision services for more than 70% of the total pool of projects, despite the fact that there are more than 1.5 thousand companies in the country.

In this case, such corruption factors are seen as a legal gap (the absence of legal regulation of a particular issue in a legal act or internal document) and the breadth of discretionary powers (it is impossible to determine the limits of authority).

The company only checks the IC selected by AC for compliance with the requirements of the Law and enters into a tripartite agreement with the IC and the AC.

It should be noted that until March 2021, the selection of IC was carried out by the Company through an open tender, transfer of this procedure to the AC may lead to selection of loyal or related IC, to a weakening of control over the quality of construction, targeted use of shared construction participant's funds and realization of reputational risk.

The Company's rules contain the requirements for IC, established by Law. The structural divisions of the Company carry out the verification of IC selected by AC for compliance with the Law and provide conclusions to the DTM in accordance with the approved form.

When studying the forms of the conclusion, discrepancies with the requirements of the rules were established, as a result, the responsibility for selection

of priority position is assigned to the Executor (corruption facts – a conflict of provisions of internal documents).

In accordance with the requirements of the Company's rules, as well as subparagraph 2) of paragraph 6 of Article 21 of the Law, certified experts are prohibited from being in labor, financial or other dependent relationships with a developer or an authorized company and with other shared construction participant in housing construction.

There are no provisions regulating this issue both in the rules and in the Law (for example, types of services, prescription, methods of confirmation), which creates the possibility of arbitrary determination of conditions in order to extract illegal benefits (the corruption factor is a legal gap).

Verification of compliance with the requirements of the rules and the Law is limited to requesting a confirmation letter from the AC on compliance with the requirements, therefore, this issue may remain unexamined at the choice of the Executor.

### ***Procedure for analyzing IC reports***

According to paragraph 3 of Article 21 of the Law, the IC is obliged to provide the Single Operator with a monthly report on results of monitoring of the progress of construction of an apartment building as per form approved by the authorized body.

In accordance with subparagraph 3) Paragraph 2 of the Law, in order to perform the main tasks, the Single Operator, among other things, performs the functions of analyzing IC reports.

The procedure for analyzing IC's reports is regulated by the Company's internal rules (Monitoring Rules).

According to the Monitoring Rules, if incorrect data or inconsistency is detected, the TMD can issue a comment to the submitted reports, return the report for revision with a deadline for elimination, while there is no requirement in the rules to provide a reasoned letter when returning.

As a result, in separate letters on return of report for revision, the TMD do not specify the reasons for the return and do not describe inconsistencies, they are limited only to specifying the following formulations "it is necessary to correct tables 3, 7, 9", "tables are not filled in correctly 3, 4, 5, 6, 9", "Correct Table 3" without specifying details.

From such a comment, it is not clear in which part the report needs to be finalized, for such reasons, reports can be returned indefinitely for revision, there are risks of corruption offenses (the corruption factor is the breadth of discretionary powers).

It should be noted that providing the IC with an incorrect report more than three times is the basis for termination of the contract for provision of engineering services (according to the Monitoring Rules).

According to the results of the Company's analysis, changes have been made to the internal rules to eliminate corruption risks, the IC selection procedure has been fully digitized, conducted electronically through an open competition through the portal [www.mitwork.kz](http://www.mitwork.kz) by analogy with public procurement procedures. As a

result, up to 12 engineering companies participate in the online competition for only one facility.

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