



Investigation Report

Global Fund Grants in the Republic of Kazakhstan

Procurement Irregularities by Vendors and the Principal Recipients

GF-OIG-15-002
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Geneva, Switzerland

Non-compliant expenditures - US\$ 16,465,832
Proposed recoveries - US\$ 5,432,097
Categories – Collusion / Fraud / Corruption / Non-Compliance with Grant Agreements

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I. Background and Scope

The Global Fund has made commitments under five grants to the Republic of Kazakhstan. During the period covered by this investigation, from the first grant in December 2003 to October 2012, disbursements totaled US\$ 89.5 million and between December 2003 and 30 June 2014, US\$ 111.8 million. Global Fund grants in the Republic of Kazakhstan are implemented by two Principal Recipients: since 2003, the Republican Center for Prophylactics and Control of AIDS (RCAIDS) and since 2007, the National Center of Tuberculosis Problems (NCTP). RCAIDS was established in 2001 as a state institution reporting to the Ministry of Public Health with the purpose of coordinating and facilitating the multi-sector HIV/AIDS response. NCTP, established in 1932 as a scientific and policy institute reporting to the Ministry of Public Health, is responsible for the technical management of tuberculosis control throughout Kazakhstan. It is also the medical center for tuberculosis for the entire country.

This report follows a prior investigation report from the Office of the Inspector General's (OIG) Investigations Unit, published in December 2013, into allegations of an attempted misappropriation and ultimate misuse of Global Fund grants amounting to US\$ 105,227 by RCAIDS. In 2006, RCAIDS procured antiretroviral (ARV) drugs from the local distributor in Kazakhstan of Hoffmann La-Roche, a pharmaceutical company. On 6 June 2007, Hoffmann La-Roche issued a global recall notice for an ARV drug due to alleged contamination. In 2009, Hoffmann La-Roche entered into negotiations with RCAIDS and agreed to reimburse US\$ 105,227 as the cost of recalled drugs to RCAIDS. The Financial Manager of RCAIDS at the time, without informing the Global Fund, requested that the reimbursement be made through a transfer to the bank account of a third party entity in New Zealand. The investigation identified that this company had no apparent relation to Global Fund financed activities. Ultimately, the reimbursement was not made to this account. Instead, it was made much later in 2012 to RCAIDS. The most recent Director General of RCAIDS, without informing the Global Fund, earmarked these funds for an "anti-HIV/AIDS information campaign" and, following a collusive procurement procedure, disbursed them to two companies, one of which was operated by a friend of his. Two of the three recommendations in this investigation report¹ have been implemented and validated by the OIG. This includes the reimbursement of US\$ 105,227 to the Global Fund in April 2014.

In 2011, the OIG, through its country audit in Kazakhstan, found preliminary indications of possible misappropriation of grant funds in procurements from local suppliers in particular. Since 2009, allegations of possible misappropriation of the state budget and grant funds by RCAIDS, implicating the management and staff of RCAIDS at the time, have also appeared in the Kazakh media. The Almaty City Prosecutor's Office has been investigating RCAIDS since 2009 and NCTP since 2010.

In 2011, one of the ex-Director Generals of RCAIDS, in post from 2006 to 2009, was imprisoned for embezzling state funds allocated to RCAIDS. None of the funds came from the Global Fund. In the same year, a court of appeal reduced the sentence of the ex-Director General and she was released. Two other ex-members of RCAIDS staff, neither of whom implemented Global Fund grants, were also convicted. Another ex-Director General of RCAIDS, in office between 2009 and 2010, also faced criminal charges regarding the embezzlement of state funds.

The OIG launched an investigation into grants to Kazakhstan in 2011, focusing on RCAIDS and NCTP procurements from local vendors. The OIG's risk-based forensic review covered all local procurements of significant value including approximately 160 RCAIDS procurements between 2004 and 2012 totaling US\$ 23 million, and approximately 60 NCTP procurements between 2007 and 2012 totaling US\$ 13 million. This review was followed up by further investigation work and included an independent price assessment of the goods and services procured by RCAIDS and NCTP.

¹http://theglobalfund.org/documents/oig/OIG_GFOIG13051InvestigationKazakhstan_Report_en

Following the Country Team's assessment that the Local Fund Agent lacked capacity, it was replaced in 2012 with PricewaterhouseCoopers (PwC). In September 2014, the Ministry of Public Health referred the matter to the Kazakh Police authorities, who are currently conducting a criminal investigation.

II. Executive Summary

The OIG investigation found evidence of systematic collusive, fraudulent, and corrupt practices by local vendors and other parties which compromised 57 contracts awarded by RCAIDS between 2005 and 2012 totaling US\$ 10,565,493, and 19 contracts awarded by NCTP between 2009 and 2012 totaling US\$ 5,900,339.

The investigation also found that a number of previous and current RCAIDS and NCTP management and staff members were either fully or partially aware of these practices by the local vendors, did not disclose them to the Global Fund, or were involved in a number of the irregularities directly.

Whilst there was no evidence to suggest that the local vendors did not supply the goods or services under these contracts, the OIG investigation found that a total of US\$ 16,465,832 was non-compliant expenditure of Global Fund grants. Although the OIG did not find evidence of overpricing in all the contracts, its independent price assessments identified that at least 36 of the 57 irregular RCAIDS contracts were systematically overpriced by a total of US\$ 4,179,941 and at least 16 of the 19 irregular NCTP contracts were systematically overpriced by a total US\$ 1,252,156 (see Annex C for details).

The OIG undertook independent price assessments for 41 out of 57 contracts awarded by RCAIDS and 16 out of 19 contracts awarded by NCTP (see Annex C for the summary of the OIG calculations). The OIG consistently adopted a conservative approach to the price assessments to ensure they were justifiable and fair. In some cases, it was not possible to establish if there had been overpricing due to a lack of technical information concerning goods and services. The OIG was able to establish, however, using comparable market data, for example, that printing costs were overpriced, sometimes by more than 80%. The assessment found systematic overpricing for condoms and a whole range of other goods and services for patients with HIV and/or tuberculosis. The OIG therefore proposes, as a minimum recovery figure, a total of US\$ 5,432,097, corresponding to the overpricing identified.

Specifically, the procurement irregularities identified by the OIG were:

Systematic bid-rigging scheme in procurements by RCAIDS between 2005 and 2010 and NCTP in 2010
At least 38 contracts awarded by RCAIDS totaling US\$ 7,043,867 and eight contracts awarded by NCTP totaling US\$ 3,430,489 resulted from a systematic bid rigging scheme involving at least four individuals referred to in general terms in this report as the “Ring Leaders”, 17 winning and 10 losing local vendors who engaged in collusive and/or fraudulent practices. In most cases, the Ring Leaders were in charge of the delivery of goods or services to RCAIDS and NCTP, although often in the name of another winning vendor. As these individual Ring Leaders have a combination of formal and informal relationships with these vendors and cannot be referred to with specific organization role titles, they are called *Alpha*, *Beta*, *Gamma* and *Delta* in this report. The OIG established, through confidential sources and corroboration of extensive evidence, that *Alpha* was supervising the Vendor Ring and owned or financially controlled many of the vendors involved in the scheme. The Ring Leaders either (i) themselves submitted bids on behalf of more than one vendor (often for the same procurement procedure), and/or (ii) coordinated with other vendors submitting fake bids to simulate competition, and/or (iii) exerted pressure on various parties in order to have contracts awarded on a single source basis. The OIG illustrated the relationship of the Ring Leaders and vendors involved in the systematic bid-rigging scheme in Annex E - Figure 1.

All or part of these bid rigging practices took place with the full or partial knowledge of two ex-Directors Generals of RCAIDS (in office between 2006 and 2009, and between 2009 and 2010, respectively), the current Director of NCTP, and a number of other Principal Recipients’ previous staff members. These staff members were also responsible for a number of irregularities including: making false statements to the OIG, under-advertising tenders resulting in collusive and fabricated bids only, an attempt to alter

procurement files, and procurement decisions based upon fabricated product sample testing documents.

Other collusive procurements by NCTP between 2010 and 2012

Seven contracts awarded by NCTP totaling US\$ 2,332,246 were compromised by collusive practices by six winning and ten losing local vendors, a number of which were related to the Ring Leaders referred to above. All of these procurements involved bid simulations and four of them also involved a bid rotation scheme. This was a scheme in which exactly three bids were received for each tender with a different vendor winning each time. Some of the bidding vendors showed weak supplier capacity, indicating that the delivery of the goods or services would have to be made by another party on their behalf.

All or part of these practices by the local vendors took place with the full or partial knowledge of the current Director of NCTP and the ex-Procurement Specialist of NCTP. The ex-Procurement Specialist was also responsible for under-advertising some of the tenders leading to only collusive and fabricated bids being received.

Collusive procurements by RCAIDS from one vendor between 2008 and 2009

Five contracts awarded by RCAIDS totaling US\$ 1,376,796 were compromised by collusive and/or fraudulent practices by one winning and one losing local vendor. These practices took place with the knowledge of the ex-Director General of RCAIDS (in office between 2006 and 2009) and two ex-Procurement Specialists of RCAIDS (in office between 2007 and 2008, and during 2009, respectively).

Other collusive procurements by RCAIDS between 2011 and 2012

12 contracts awarded by RCAIDS totaling US\$ 1,254,684 were compromised by collusive practices by four winning and nine losing local vendors. All or part of these practices took place with the full or partial knowledge of the most recent Director General of RCAIDS (in office from 2010-2014) and a number of current and previous RCAIDS staff members stated in this report. It should be noted that, at the time of finalizing this report, the most recent RCAIDS Director General resigned.

Furthermore, two contracts totaling US\$ 890,145 were awarded by RCAIDS based on fabricated product sample testing documents. The last Director General of RCAIDS determined that product testing results for these procurements would be the only way to evaluate the vendor bids rather than price considerations.

Collusive procurements by NCTP from one vendor between 2009 and 2012

Four contracts awarded by NCTP totaling US\$ 137,604 were compromised by fraudulent practices by one local vendor and corrupt practices between this vendor and the ex-Procurement Specialist of NCTP (in office between 2007 and 2013). The OIG found evidence that in 2009 the ex-Procurement Specialist accepted an inappropriate facilitation payment of US\$ 17,000 from this vendor.

Root Causes

The OIG identified additional factors that were present during this period and which may have contributed to the scale of the procurement irregularities identified. These include the fact that RCAIDS' and NCTP's procurement procedures during this period did not include sufficient guidance, the Global Fund's grant conditions did not include sufficient procurement risk mitigating measures and the oversight arrangements by the Secretariat were limited at the time. There was no formal process of due diligence by the Principal Recipient on its suppliers, which allowed the relationship of the Ring Leaders with selected vendors to go unchecked. Considering the scale and the duration of the procurement irregularities summarized above, the OIG finds that in most cases the Ring Leaders and the other vendors involved had support from the Principal Recipient management at the time to facilitate contract awards to these vendors. The degree of knowledge by the Principal Recipient management and staff of the irregularities varied in each case from inattention, condoning, favoritism to potential or actual collusion with the local vendors or other parties.

Due Process

During the investigation, the OIG interviewed a significant number of local vendors and current and previous RCAIDS or NCTP management and staff members. Despite attempts by the OIG to make contact with the three implicated ex-procurement specialists of RCAIDS (in office between 2007 and 2008, 2009, and between 2009 and 2010, respectively) the individuals could not be reached. Furthermore, the OIG communicated its detailed findings about each of the abovementioned contracts to RCAIDS or NCTP and took their responses into account in its findings. A summary of the Principal Recipient Responses is included in Annex D.

Actions already taken

Since 2012, the Secretariat has implemented various risk mitigating measures for the Kazakhstan portfolio, which have concentrated on the Principal Recipients' procurement activities and have included enhanced oversight and controls, system changes and a high-level political engagement with the Ministry of Public Health and international partners.

More specifically, the Secretariat's Country Team has implemented:

- a new risk-based procurement oversight strategy (including regular in-depth reviews by both the Country Team and the Local Fund Agent both prior to, and after contract awards);
- is using the Global Drug Facility for tuberculosis second line drugs and using Secretariat's pooled procurement mechanism (PPM)² prices as a benchmark for selected procurements;
- for NCTP, a Procurement Agent has been appointed. (The Procurement Agent for RCAIDS is in the stage of finalizing contractual arrangements).

The Principal Recipients remain responsible for certain low value or low risk procurements, with oversight of the Local Fund Agent and the Country Team. A Procurement Agent is responsible for all other remaining procurements. The Country Team extensively reviewed the unit prices in the Principal Recipients' Procurement and Supply Management plans to ensure all high value/high risk procurements have adequate oversight measures in place. The Country Team has also refrained from further association with a number of the Principal Recipient management and staff members implicated in this report.

It should be noted that the current grant agreement with NCTP will be extended until 30 June 2015. No new Global Fund grants to Kazakhstan will be signed until all agreed management actions in this report have been implemented.

The Secretariat believes continued funding of the Principal Recipients RCAIDS and NCTP is appropriate, given its critical role in leading the national HIV and tuberculosis response, and given the safeguards and procedures established to mitigate the issues and risks summarized in this report. Both Principal Recipients have undergone significant reforms and many of the individuals identified as being involved in collusive and fraudulent procurements have been removed from their posts.

Agreed Management Actions

Remaining actions proposed by the OIG and agreed by the Secretariat are set out in Section V. Based on the findings of this report, it was agreed that the Secretariat will:

1. Finalize and pursue, from all entities responsible, an appropriate recoverable amount. This amount will be determined by the Secretariat in accordance with its evaluation of applicable legal rights and obligations and associated determination of recoverability. See Annex C.

² Through the PPM, the Principal Recipients can procure core health products through the PPM prequalified procurement services agents.

2. Ensure that the Principal Recipient employees identified in this report as having had a role in carrying out or facilitating the wrongdoings described in this report are no longer involved with the management of grant funds.
3. Finalize the contract for an independent procurement agent for RCAIDS to monitor all major procurements.
4. Given the widespread, systematic nature of the findings detailed in this report, the Secretariat will address the supplier misconduct in accordance with the Secretariat's policy on supplier misconduct and the Sanctions Panel Procedure.
5. Pending a decision following the conclusion of Secretariat's process around supplier misconduct, the Secretariat will immediately ensure that the vendors (known to be associated with *Alpha*, *Beta*, *Gamma* and *Delta*) involved in supplier misconduct, are no longer involved with procurement under the Global Fund supported programs.
6. The Secretariat will, together with the OIG, draft guiding principles for Principal Recipients, providing information on how to make a basic determination of a supplier's legitimacy, ownership, financial security and capacity.

III. Findings and Agreed Actions

01 Systematic Bid Rigging Scheme in Procurements by RCAIDS between 2005 and 2010 and in Procurements by NCTP in 2010

The OIG found that at least 46 contracts (see Table 1 below), awarded to 17 local vendors between 2005 and 2010 by RCAIDS (38 contracts totaling US\$ 7,043,867) and in 2010 by NCTP (eight contracts totaling US\$ 3,430,489), resulted from compromised procurement processes. All 17 selected vendors, along with 10 losing bidders, engaged in a systematic bid rigging scheme and collusive and/or fraudulent practices. The OIG also identified other collusive procurements which resulted in contracts awarded by NCTP (see Section 05), part of or all of which, may or may not have been part of this bid rigging scheme. The OIG investigation was inconclusive in this regard.

Either one, or up to four particular individuals, were involved in each instance of bid rigging. As these individual Ring Leaders had a combination of formal and informal relationships with these vendors and cannot be given specific organization role titles, they have been referred to in this report as *Alpha*, *Beta*, *Gamma* and *Delta*.³ The OIG found strong evidence that Alpha was supervising the Vendor Ring and owned or financially controlled many of the vendors involved in the scheme.

The Ring Leaders (one or more in each case) either (i) themselves submitted bids on behalf of more than one vendor (often for the same procurement), and/or (ii) coordinated with other vendors submitting fake bids to simulate competition, and/or (iii) engaged with various entities in order to obtain contracts on a single source basis. Consequently, in most cases, the Ring Leaders were in charge of the ultimate delivery of goods or services to RCAIDS and NCTP, although often in the name of another winning vendor. The relationships between the Ring Leaders and vendors are summarized in Figure 1 in Annex E.

The OIG identified that all or part of these irregular procurements also took place with the full or partial knowledge of at least the following Principal Recipient management and staff members who did not disclose these procurement irregularities to the Global Fund:

- two ex-Directors General of RCAIDS (in office between 2006 and 2009 and between 2009 and 2010);
- the ex-Global Fund Project Implementation Unit (PIU) Manager of RCAIDS (in office between 2009 and 2014);
- the ex-Financial Manager of RCAIDS (in office between 2007 and 2013);
- three ex-Procurement Specialists of RCAIDS (in office between 2007 and 2008, during 2009, and between 2009 and 2010, respectively);
- the current Director of NCTP; and
- the ex-Procurement Specialist of NCTP (in office between 2007 and 2013).

Considering that the bid rigging scheme was fully or partially known by the above management and staff members of RCAIDS and NCTP, the OIG finds that all of the 46 contracts listed below formed part of the scheme. This was irrespective of whether they were compromised by collusive or fraudulent practices by vendors or whether they were awarded by RCAIDS and NCTP to the same vendors on a single source basis.

³ The OIG takes reasonable measures to protect as confidential any non-public information associated with an investigation, including the identity of parties that are the subject of the investigation and of parties providing testimony or evidence. (Uniform Guidelines for Investigations, 2009)

Table 1 – Collusive procurements by RCAIDS and NCTP due to the systematic bid rigging scheme between 2005 and 2010

Rnd	PR ⁴	Winning vendor	Other collusive or fabricated bids	Contract date	Goods/services provided	Contract value (paid), US\$ ⁵
2	RCAIDS	Aliyar	Mediko Markus	18/03/2008	STI drugs ⁶	467,380
7	RCAIDS	Aliyar	Neman	15/04/2009	STI drugs	35,084
7	RCAIDS	Antago	Odal Trade	27/01/2010	disinfection products	93,785
7	RCAIDS	Antago	Odal Trade	27/01/2010	rubber gloves	77,775
2	RCAIDS	Antal 2030	Mediko Markus, Nurstom	26/02/2008	disinfection products	30,022
2	RCAIDS	Anteks	Greensolt, Sinotech	18/06/2007	IT equipment	19,026
2	RCAIDS	Anteks	High End Consulting, Sinotech	8/02/2008	IT equipment	6,112
7	RCAIDS	Anteks	High End Consulting, Sinotech	12/03/2008	IT equipment	178,908
2	RCAIDS	Anteks		21/04/2008	transportation of vehicle	5,138
7	RCAIDS	Anteks	High End Consulting	30/01/2009	office equipment	14,224
7	RCAIDS	Anteks		16/02/2009	IT equipment	22,486
7	RCAIDS	Anteks	High End Consulting	1/04/2009	IT equipment	151,695
7	RCAIDS	Anteks	High End Consulting	15/04/2009	IT equipment	4,188
7	RCAIDS	Classic Dent	Mediko Markus	11/02/2010	syringes “B. Braun” (Germany)	588,665
2	RCAIDS	Continent Eurasia	Anteks	15/09/2007	design and printing of IEM ⁷	1,370
2	RCAIDS	Continent Eurasia		14/12/2007	design and printing of IEM	1,407
2	RCAIDS	Continent Eurasia	Amanzhol, SA Print Service	28/04/2008	design and printing of IEM	40,205
7	RCAIDS	Continent Eurasia		18/07/2008	information campaign	17,678
7	RCAIDS	Dogma Plus	Mediko Markus	25/01/2010	condoms “Protect Plus” (China)	257,204
7	RCAIDS	Dogma Plus	Mediko Markus	25/01/2010	lubricant gel “Protect Plus” (China)	12,944
2	RCAIDS	Grafika-U	Spektr Plus	22/05/2007	design and printing of IEM	364,445
2	RCAIDS	Grafika-U	Spektr Plus	17/03/2008	design and printing of IEM	377,638
7	RCAIDS	Grafika-U	Spektr Plus	4/02/2009	design and printing of IEM	274,170
7	RCAIDS	Grafika-U	Continent Eurasia	26/06/2009	printing of IEM	14,107
7	RCAIDS	Grafika-U	Spektr Plus	22/01/2010	design and printing of IEM	286,493
7	RCAIDS	Grafika-U	Amalgama Vit, SA Print service	20/12/2010	design and printing of IEM	13,312
7	RCAIDS	Grafika-U	Amalgama Vit, SA Print service	20/12/2010	design and printing of IEM	6,026
2	RCAIDS	High End Consulting		28/04/2008	Refrigerators	13,632
2	RCAIDS	Mediko Markus	Aliyar	18/03/2008	condoms “Protect Plus” (China)	639,568
2	RCAIDS	Nurstom		25/05/2007	condoms “Protect Plus” (China)	850,497
2	RCAIDS	Nurstom		31/05/2007	lubricant gel	36,496
2	RCAIDS	Spektr Plus	MBW	22/02/2005	design and printing of IEM	570,961
2	RCAIDS	Spektr Plus		23/09/2005	design and printing of IEM	233,916
2	RCAIDS	Spektr Plus	Anteks	27/04/2006	design and printing of IEM	878,504
7	RCAIDS	Sun Trade Alma	Continent Eurasia	16/02/2009	disinfection products	81,680
7	RCAIDS	Sun Trade Alma	Mediko Markus, Nurstom	16/02/2009	rubber gloves	74,298
7	RCAIDS	Sun Trade Alma	Nurstom	23/02/2009	condoms “Protect Plus” (China)	254,379
7	RCAIDS	Sun Trade Alma	Mediko Markus, Nurstom	23/02/2009	lubricant gel “Protect Plus” (China)	48,447
Total, RCAIDS						7,043,867
8	NCTP	Alim Eurasia	Terma-Aksay, Vollab	28/10/2010	logistics services	58,701

⁴ Principal Recipient

⁵ In all cases in this report, the OIG applied the official exchange rates on the actual contract establishment or transaction dates, as appropriate and established by the National Bank of the Republic of Kazakhstan. Where the value added tax (VAT) amount was or should have been indicated in the contract, the OIG estimated and excluded the VAT amount from the contract value.

⁶ STI – sexually transmitted infections

⁷ IEM – informational & educational materials

Rnd	PR⁴	Winning vendor	Other collusive or fabricated bids	Contract date	Goods/services provided	Contract value (paid), US\$⁵
		Service	System			
8	NCTP	Azha Farma		25/03/2010	bacterial analyzer "BD Bactec MGIT"	1,084,988
8	NCTP	Azha Farma		25/03/2010	reagents/ consumables for TB diagnostics "BD Bactec MGIT"	566,913
6	NCTP	Azha Farma		25/03/2010	reagents/ consumables for TB diagnostics "BD Bactec MGIT"	64,919
8	NCTP	Classic Dent		21/06/2010	reagents/ consumables for TB diagnostics "BD Bactec MGIT"	257,024
8	NCTP	Classic Dent		21/06/2010	reagents/ consumables for TB diagnostics "BD Bactec MGIT"	166,270
8	NCTP	Sana Consulting	Sinotech, Zarin-D	24/09/2010	social packages for TB patients	169,881
8	NCTP	Zarin-D	Amanzhol, Sinotech	23/12/2010	social packages for TB patients	1,061,793
Total, NCTP						3,430,489
Grand total						10,474,356

The OIG finds it probable that the Ring Leaders had the support of at least the Principal Recipient management to obtain business and provide goods and services to RCAIDS and NCTP. This is based both on the size of the bid rigging scheme and the fact it lasted at least from 2005 to 2010 for RCAIDS procurements and for NCTP procurements later in 2010.

In a number of cases, RCAIDS and NCTP management focused on ordering goods and services from vendors they considered to be reliable and who they had worked previously with, rather than awarding contracts to unknown companies. However, as detailed in Annexes B and C, the OIG concluded that many of the contracts listed above were overpriced by the vendors.

The OIG identified additional factors that were present during this period and which may have contributed to the scale of the procurement irregularities identified. These include the facts that RCAIDS' and NCTP's procurement procedures during this period did not include sufficient guidance, the Global Fund's grant conditions did not include sufficient procurement risk mitigating measures and the oversight arrangements by the Secretariat were limited at the time.

Irregularities by vendors

The OIG identified systematic and widespread identical elements⁸ in bids and other documents from different vendors and identical or very close prices in bids from different vendors, often competing for the same procurement award. The investigators also identified poorly prepared bids (i.e. bids with no addresses, phone numbers, dates or other essential elements), in particular from losing vendors, indicating that such bids were prepared most probably to simulate competition.

For example, one specific case was identified where bids submitted between 2008 and 2010 to RCAIDS by nine vendors (Antago, Antal 2030, Classic Dent, Continent Eurasia, Dogma Plus, Mediko Markus, Nurstom, Odal Trade and Sun Trade Alma) all showed identical features, indicating that such bids originated from one source.

⁸ Significant portions of identical text or formatting in documents allegedly submitted by different entities but actually originating from one source. Such identical text or formatting were created by this source and did not come from the template provided by the Principal Recipient.

The OIG found that a number of vendors in the Ring were either owned by or employed one or several of the Ring Leaders, or the Ring Leaders officially represented such vendors in procurements by RCAIDS and NCTP.

Specifically, the OIG found that:

- *Alpha* was the owner of vendors Continent Eurasia and High End Consulting, and the co-owner of Anteks. *Alpha* (as well as one other employee) was employed by Anteks, Continent Eurasia and High End Consulting;
 - *Beta* was the co-owner of Anteks. He was employed by Anteks, Continent Eurasia, High End Consulting and MBW, and represented Mediko Markus based on an authorization from Mediko Markus;
 - *Gamma* was employed by Continent Eurasia and represented Grafika-U and Spektr Plus based on authorizations from these vendors;
 - *Delta* was the owner of Zarin-D. He was employed by Zarin-D and represented Classic Dent based on an authorization from Classic Dent;
 - another individual was employed by Amanzhol and Zarin-D, and also represented Alim Eurasia Service.
- According to statements by the vendors and Principal Recipient staff, the Ring Leaders also represented the following vendors:
 - *Alpha* and *Beta* represented Azha Farma, Classic Dent, Grafika-U and Nurstom. The Director of Nurstom indicated that, for the contracts awarded by RCAIDS to Nurstom, Nurstom transferred the funds received to another company that was indicated to him by *Beta*;
 - *Delta* represented Sana Consulting and Zarin-D (company owned by *Delta*). Zarin-D acted as a subcontractor of Sana Consulting and, according to their sub-contract, received from Sana Consulting 96% of the value of NCTP's contract with Sana Consulting (see Table 1 above).
 - *Alpha*, *Beta* and *Gamma*, as well as other vendors in the Ring, (the Director of Aliyar, the Deputy Director of Aliyar and the Director of Alim Eurasia Service), along with only four other individuals, were all shareholders of the same company named Eurasia Almaty 2008. This company did not participate in RCAIDS or NCTP procurements.
 - Vendor representatives of Classic Dent, Dogma Plus, Mediko Markus, Nurstom and Sana Consulting made statements indicating that their companies only acted as intermediaries for other vendors in procurements by RCAIDS and NCTP.
 - A number of vendors who bid in procurements had a different activity from the one for which they submitted the bids (indicating that they acted as intermediaries for other companies):
 - Amalgama Vit's business was security systems, rather than design and printing services;
 - Classic Dent and Nurstom were dental clinics and did not specialize in health products delivered to RCAIDS and NCTP;
 - Dogma Plus' business was the supply of construction materials rather than of health products;

- Sana Consulting's business was construction rather than the delivery of social packages for tuberculosis patients.⁹
- Dogma Plus', Mediko Markus', Nurstom's and Sun Trade Alma's bids contained good compliance certificates issued for other vendors in the Ring: Aliyar, Mediko Markus, Nurstom and Sun Trade Alma, from which RCAIDS had procured the same goods in earlier procurements.
- The OIG obtained evidence from confidential sources that *Alpha* with his "managers" were in charge of all "Protect Plus" condom deliveries, all major procurements for design and printing services of informational and educational materials (IEM), as well as supplied syringes "of a German brand" to RCAIDS at the particular time (see Table 1 above).
- The OIG obtained evidence from confidential sources that in 2010 representatives of Azha Farma engaged in collusive practices in order to secure the award of three contracts by NCTP to Azha Farma and of two contracts by NCTP to Classic Dent (see Table 1 above). A number of products in Azha Farma's contracts were 15% more expensive, and in Classic Dent's contracts, 60% more expensive, than analogous products supplied in 2009 by the previous distributor Farmaktiv.
- A number of vendor bids included false data: Antal 2030' bid included a false registration number; Zarin-D's two bids included false "qualification details", and one of the two bids, a false balance sheet.
- There were significant differences in the handwriting of a number of vendor representatives in tender documents from handwriting confirmed as their own. The handwriting and signatures of the Directors of Amanzhol, Sana Consulting and Sinotech differed from the handwriting confirmed as theirs and instead resembled the handwriting of *Delta*. The signature of the Director of Antago differed from his confirmed signature.
- There were inconsistencies and contradictions in the statements made by a number of vendor representatives (vendors Aliyar, Azha Farma, Dogma Plus and SA Print Service).
- The OIG could not locate the following vendors which formed part of the Ring or contact their representatives: Alim Eurasia Service, Antago, Antal 2030, Continent Eurasia, Spektr Plus, Sun Trade Alma and Zarin-D (winning vendors), and Amalgama Vit, Amanzhol, Greensolt, Odal Trade, Neman, Sinotech, Terma-Aksay and Vollab System (losing vendors). These vendors had either ceased operations by the time the OIG undertook the vendor verifications, or their bids contained false addresses, or the residents or personnel encountered by the OIG at these addresses confirmed that the vendors had never had offices at these addresses. Phone numbers indicated on the bids of these vendors were, in most cases, outdated or false numbers.
- At least two of the Ring Leaders, *Alpha* and *Beta*, as well as a significant number of vendors in the Ring (Antago, Antal 2030, Anteks, Azha Farma, Classic Dent, Continent Eurasia, Dogma Plus, Mediko Markus, Nurstom and Sun Trade Alma), had been prosecuted by the Almaty City Prosecutor's Office. In 2011, the Director of Azha Farma was sentenced for the embezzlement of state budget funds allocated to RCAIDS (Global Fund grants were not concerned by this court ruling).

Awareness of the bid-rigging scheme and irregularities by Principal Recipient staff

By the preponderance of evidence, the OIG finds that any Principal Recipient staff member involved in procurement operations on a direct and recurrent basis could not have been unaware of the systematic

⁹ Packages of food and hygiene items intended for tuberculosis patients in need

bid rigging practices described above, and therefore by implication condoned, if not facilitated, such practices.

RCAIDS staff

The OIG finds that the continuity of the bid-rigging scheme in RCAIDS between 2005 and 2010 and during the change of the Procurement Specialists in 2009 would not have been possible without the knowledge of RCAIDS management at the time. The evidence set out below supports the OIG's finding that a number of management and staff members of RCAIDS were either fully or partially aware of the bid-rigging scheme:

- A series of Tender Committee minutes and other procurement decisions between 2007 and 2010 (see details in Figure 2 in Annex E) involved a number of RCAIDS management and staff members who regularly reviewed the bids received from vendors in the Ring and who could not have failed to notice the consistent irregularities in the bids they reviewed.
- Several vendor representatives confirmed that contact with RCAIDS on behalf of their companies was maintained by the Ring Leaders:
 - the Director of Classic Dent confirmed that *Beta* brought him documents from RCAIDS for signature and collected all documents for submission to RCAIDS;
 - the Director of Grafika-U confirmed that *Gamma* represented Grafika-U when dealing with RCAIDS. This was also confirmed by the ex-PIU Manager of RCAIDS. *Gamma* also represented Continent Eurasia and Spektr Plus, who were often the only competing vendors with Grafika-U (see Table 1 above);
 - the Director of Nurstom confirmed that all RCAIDS-related business on behalf of Nurstom was managed by *Beta* and another person (whom he identified by *Alpha's* first name). The Director of Nurstom further stated that the then Director General of RCAIDS (in office between 2006 and 2009) and the "accountant" of RCAIDS were in contact with *Beta*.
- The ex-Director General of RCAIDS (in office between 2009 and 2010) stated that the suppliers managed by *Alpha* were working with RCAIDS during the previous Director General's tenure and that, at the beginning of his own office, the most recent Director General of RCAIDS (who was the Director of Almaty City AIDS Center at that time) introduced *Alpha* to the ex-Director General as a reliable business partner. *Alpha* had proposed to continue his cooperation with RCAIDS. The ex-Director General stated that he had proposed that *Alpha's* suppliers bid for tenders following the established procedure. The OIG nevertheless observed very limited competition and preferential treatment during the subsequent procurements in which *Alpha's* suppliers were selected during the ex-Director General's tenure with RCAIDS.
- The most recent Director General of RCAIDS stated that, to his knowledge, "*Beta* and *Alpha* were representatives of Azha Farma and had obvious connections with Classic Dent, and possibly with Grafika-U."
- RCAIDS employees' e-mail account records indicated that Ring Leaders acted on behalf of various vendors, and that this was known to these staff members. For instance, e-mail account records of the ex-Financial Manager of RCAIDS (in office between 2007 and 2013) included various contact details of *Beta* and e-mail communications between *Beta* and two ex-Procurement Specialists of RCAIDS (in office between 2007 and 2008, and during 2009, respectively). The latter ex-Procurement Specialist, shortly after joining RCAIDS in January 2009 (and in the same manner as her predecessor), informally communicated with *Beta* on a wide variety of products supplied under

names of different vendors. This indicates that the new Procurement Specialist received guidance from the then RCAIDS management.

- Preferential treatment of vendors in the Ring during procurement process:
 - RCAIDS awarded significant contracts to Antago and Sun Trade Alma (see Table 1 above) just a few months after the registration of these vendors;
 - For the US\$ 850,497 contract awarded to Nurstom (see Table 1 above), RCAIDS invitation to bid included an unrealistic delivery period (50 days for a large consignment), resulting in a limited number of bids. Following the award of the contract to Nurstom, RCAIDS extended the delivery period to nearly 18 months.

The OIG also noted other irregularities by RCAIDS management and staff members in relation to contracts awarded to vendors in the Ring:

- In December 2008, the ex-Financial Manager of RCAIDS suggested altering procurement files following a procurement review that she undertook and in order “to rectify” the incomplete files and procurement procedures that had not been followed. She suggested that: bids previously received from vendors be altered or backdated bids be included in the files; invitations to bid that had been sent as well as earlier Tender Committee minutes be altered or backdated minutes be included in the files; and conditions in implemented contracts be altered. The OIG did not conclude whether her recommendations had been followed or not.
- In February 2010, the Tender Committee members (the ex-Director General of RCAIDS in office between 2009 and 2010, the ex-PIU Manager of RCAIDS, the ex-Financial Manager of RCAIDS, and the ex-Procurement Specialist of RCAIDS in office between 2009 and 2010, assisting as the Secretary) made a decision to procure syringes for US\$ 588,665 (see Table 1 above, contract awarded to Classic Dent), although the focus group approbation reports¹⁰ submitted by two entities for this procurement were fabricated. Reports from two entities included significant portions of identical text, and one report for each entity followed an incorrect approbation form to be used for condoms rather than for syringes, indicating that focus group tests were not undertaken. The OIG did not identify which party had fabricated such reports but on the basis of this evidence finds that the Tender Committee members could not have failed to notice the forgeries.

NCTP staff

The following evidence and irregularities demonstrate that the bid-rigging scheme was either fully or partially known by the ex-Procurement Specialist of NCTP (in office between 2007 and 2013):

- The NCTP ex-Procurement Specialist stated to the OIG that he had never heard of *Beta*. However, this contradicted the fact that he had stored in his e-mail contacts three phone numbers and one e-mail address belonging to *Beta*, noting the latter as the representative of Azha Farma, as well as six phone numbers for *Alpha*. *Beta* confirmed himself that he worked with Azha Farma. The Director of Classic Dent confirmed that *Beta* had proposed that he enter into contracts with NCTP by and had co-operated with him as well as with *Delta*.

¹⁰ Focus group approbations: According to procurement and supply management plans for grants to RCAIDS and the applicable tender documentation sets (invitations to bid) issued by RCAIDS for tenders for purchase of syringes, needles, condoms and lubricant gel, procurement of these goods could be undertaken after testing samples of goods in at least two focus groups. For this purpose, the potential suppliers were to submit samples of goods to RCAIDS, who was to forward them to selected institutions involved in distribution of such goods (usually, non-governmental organizations (NGOs) and regional AIDS centers), who would test the samples with selected groups of individuals, for whom such goods were procured. The selected institutions were to return approbation results to RCAIDS.

- The NCTP ex-Procurement Specialist under-advertised the tenders in which Alim Eurasia Service, Sana Consulting and Zarin-D were selected (e.g. in sections not intended for advertisements in newspapers with low circulation or only on the NCTP website). Following these advertisements, only collusive and fabricated bids were received (see Table 1 above).
- The preponderance of evidence showed that Terma-Aksay and Vollab System did not exist (see Table 1 above, contract awarded to Alim Eurasia Service), and the bids submitted on their behalf and transmitted by the ex-Procurement Specialist to the Tender Committee were fabricated.
- As stated above, the handwriting and signatures of the Directors of Amanzhol, Sana Consulting and Sinotech in tender documents (in the ex-Procurement Specialist's custody) significantly differed from handwriting confirmed as being their own and instead resembled the handwriting of Delta. Given this and the identical elements in bids for these tenders (see Table 1 above, contracts awarded to Sana Consulting and Zarin-D), the OIG finds that the ex-Procurement Specialist was aware of the collusion between vendors in these tenders. Furthermore, as mentioned above, Zarin-D's bids for these two tenders included false data, which the ex-Procurement Specialist did not scrutinize.

The systematic bid-rigging scheme by the Ring Leaders continued at least between 2005 and 2010 in RCAIDS and compromised at least eight NCTP procurements during 2010. Considering the size of the scheme and the fact that it involved both of the Principal Recipients in Kazakhstan, the OIG also finds that the continuation of the scheme at NCTP would not have been possible without the full or partial knowledge of the Director of NCTP.

The OIG investigation also highlighted that a number of vendors who bid for the above procurements by NCTP (and for another NCTP procurement worth US\$ 1,617,605 described in Section 05), as well as all four Ring Leaders, were originally from or had worked and lived in Zhambyl province, one of the 14 provinces in Kazakhstan. The current Director of NCTP is also from Zhambyl province. Under normal market circumstances, if the tenders had been widely advertised, the OIG would expect to see bids either from more diverse geographical distribution of provinces, or a majority of bids from Almaty where NCTP was located.

Agreed Action 1: The Secretariat will finalize and pursue, from all entities responsible, an appropriate recoverable amount. This amount will be determined by the Secretariat in accordance with its evaluation of applicable legal rights and obligations and associated determination of recoverability set out in Annex C.

Agreed Action 2: The Secretariat will ensure that the Principal Recipient employees identified in this report as having had a role in carrying out or facilitating the wrongdoings described in this report are no longer involved with the management of grant funds. Notably, the Country Team will refrain from further association with:

- *the most recent Director General of RCAIDS [see the OIG findings in Section 03];*
- *the current Deputy Director General of RCAIDS [see the OIG findings in Section 03];*
- *the current Procurement Specialist of RCAIDS [see the OIG findings in Section 03];*
- *two ex-Directors General of RCAIDS (in office between 2006 and 2009, and between 2009 and 2010, respectively);*
- *the ex-PIU Manager of RCAIDS (in office between 2009 and 2014);*
- *the ex-Financial Manager of RCAIDS (in office between 2007 and 2013);*
- *three ex-Procurement Specialists of RCAIDS (in office between 2007 and 2008, during 2009, and between 2009 and 2010, respectively);*
- *the current Director of NCTP; and*
- *the ex-Procurement Specialist of NCTP (in office between 2007 and 2013).*

Agreed Action 3: Finalize the contract for an independent procurement agent for RCAIDS to monitor all major procurements.

Agreed Action 4: Given the widespread, systematic nature of the findings detailed in this report, the Secretariat will address the supplier misconduct in accordance with the Secretariat's policy on supplier misconduct and the Sanctions Panel Procedure.

Agreed Action 5: Pending a decision following the conclusion of Secretariat's process around supplier misconduct, the Secretariat will immediately ensure that the vendors (known to be associated with Alpha, Beta, Gamma and Delta) involved in supplier misconduct, are no longer involved with procurement under the Global Fund supported programs.

Agreed Action 6: The Secretariat will, together with the OIG, draft guiding principles for Principal Recipients, providing information on how to make a basic determination of a supplier's legitimacy, ownership, financial security and capacity.

02 Collusive Procurements by RCAIDS from Vendor Farmaktiv between 2008 and 2009

The OIG found that five contracts (see Table 2 below) awarded by RCAIDS to vendor Farmaktiv between 2008 and 2009 for a total of US\$ 1,376,796 were compromised by collusive and/or fraudulent practices by Farmaktiv. One losing vendor was also involved in collusive practices. In Section 03, the OIG also identified other RCAIDS procurements during 2011 where Farmaktiv colluded with its distributor Oxygen-Pro.

The OIG identified that the above irregular procurements between 2008 and 2009 took place with the knowledge of at least the following RCAIDS management and staff members who did not disclose these irregularities to the Global Fund:

- the ex-Director General of RCAIDS (in office between 2006 and 2009); and
- two ex-Procurement Specialists of RCAIDS (in office between 2007 and 2008, and during 2009, respectively).

Table 2 – Collusive procurements by RCAIDS from vendor Farmaktiv between 2008 and 2009

Round	PR	Winning vendor	Other collusive bids	Contract date	Goods/services provided	Contract value (paid), US\$
2	RCAIDS	Farmaktiv		18/03/2008	syringes "Becton Dickinson" (Spain)	766,194
2	RCAIDS	Farmaktiv		18/03/2008	needles "Becton Dickinson" (Spain)	61,838
7	RCAIDS	Farmaktiv	Farma Holding	6/02/2009	laboratory supplies	1,442
7	RCAIDS	Farmaktiv	Farma Holding	30/04/2009	containers for syringes	23,885
7	RCAIDS	Farmaktiv	Farma Holding	5/05/2009	syringes "Becton Dickinson" (Spain)	523,437
Total, RCAIDS						1,376,796

RCAIDS management focused on ordering goods from Farmaktiv mostly due to the brand of syringes and needles offered, which were often preferred by the end users. This was also confirmed during the interviews with RCAIDS management and staff. However, RCAIDS purchased these products giving preferential treatment to this vendor and, as detailed in Annex C, the OIG concluded that, at a minimum, the two last contracts listed above were overpriced by Farmaktiv.

As mentioned in Section 01, the OIG identified additional factors that were present during this period and which may have contributed to the procurement irregularities identified. These include the facts that RCAIDS' procurement procedures during this period did not include sufficient guidance, the Global Fund's grant conditions did not include sufficient procurement risk mitigating measures and the oversight arrangements by the Secretariat were limited at the time.

Irregularities by Farmaktiv and RCAIDS staff awareness

The OIG identified the following evidence of collusion and procurement irregularities:

- E-mail communications between Farmaktiv representatives and the ex-Procurement Specialists of RCAIDS, which included:
 - the technical specifications sent by Farmaktiv which exactly matched their own products and were subsequently included by the ex-Director General of RCAIDS in a request for quotations (RFQ) to potential suppliers; subsequently, Farmaktiv was selected as the winning bidder;
 - bids for the same products in the names of Farmaktiv and another vendor Farma Holding (Farmaktiv and Farma Holding were owned by the same person; the Sales Director of Farmaktiv was also the Director of Farma Holding). Some of these bids were backdated and submitted subsequently to the award of contract to Farmaktiv;
 - proposals that Farmaktiv carry out focus group approbations of its products directly through the entities (e.g. non-governmental organizations (NGOs) and regional AIDS centers) which undertook these approbations with the end users. The ex-Procurement Specialist (in office during 2009) sent Farmaktiv a list of NGOs to be engaged. According to RCAIDS' procurement procedures, such approbations had to be undertaken indirectly by RCAIDS through these entities rather than by the potential suppliers;
 - in 2009, a NGO, Adali, following Farmaktiv's request stamped and signed a focus group approbation report fabricated by Farmaktiv. This was also known at least to the ex-Procurement Specialist of RCAIDS (in office during 2009). Farmaktiv also requested other NGOs to submit these reports. The identical elements (text, grammar mistakes and details of approbation results) in the reports of several NGOs suggested that they were also fabricated.
- Farmaktiv's prices for a number of products in its bids to RCAIDS exceeded their own prices by 40-70% compared to a pricelist communicated shortly before to RCAIDS and the prices on Farmaktiv's website.
- The representative of Farmaktiv (as well as of its distributor Oxygen-Pro) was also the Director of NGO Fakel at the same time, a Sub-Recipient of RCAIDS, which is a conflict of interest. This was also known at least to the then Procurement Specialist of RCAIDS (in office during 2009).

Furthermore, the OIG needs to highlight that the ex-Procurement Specialist of RCAIDS (in office during 2009) shortly after joining RCAIDS in January 2009 engaged in the same type of collusive practices with Farmaktiv (detailed above) as her predecessor did during 2008. This indicated that the new Procurement Specialist received guidance from the then Director General of RCAIDS (in office between 2006 and 2009).

03 Other Collusive Procurements by RCAIDS between 2011 and 2012

The OIG found that 12 contracts awarded by RCAIDS to four vendors between 2011 and 2012 for a total of US\$ 1,254,684 were compromised by collusive practices by vendors (nine losing vendors were also involved in collusion) as well as two contracts during 2011 for a total of US\$ 890,145 by fraudulent practices due to fabrication of focus group approbation reports (see Table 3 below). The OIG did not identify which parties had fabricated such reports. However, the OIG noted that immediately after RCAIDS received the product samples for focus group approbation from the bidding vendors, the most recent Director General of RCAIDS excluded the price criterion from the bid evaluation criteria, determining that procurement decisions would be made solely on product preferences in the above approbation reports.

The OIG identified that all or part of the above irregular procurements took place also with the full or partial knowledge of at a minimum the following RCAIDS management and staff members who failed to disclose these irregularities to the Global Fund:

- the most recent Director General of RCAIDS; and
- the Tender Committee members, including: the current Deputy Director General of RCAIDS; the ex-PIU Manager of RCAIDS (in office between 2009 and 2014); and the current Procurement Specialist of RCAIDS (assisting as the Secretary).

Table 3 – Other collusive procurements by RCAIDS between 2011 and 2012

Round	PR	Winning vendor	Other collusive bids	Contract date	Goods/services provided	Contract value (paid), US\$
7	RCAIDS	Central Asia Promotion Plus	Business Valuation Service Kazakhstan, Telco Pay	20/06/2011	information campaign	12,945
7	RCAIDS	Central Asia Promotion Plus	Prometey, Telco Pay	12/07/2011	production of video ads	19,496
10	RCAIDS	Fortis Pai	Vitena	11/03/2012	condoms "Venus #144" (Malaysia)	457,553
					lubricant gel "KaTriN" (Russia)	329,638
10	RCAIDS	Fortis Pai	Aminamed, Firma Meda	7/05/2012	laboratory supplies	4,998
7	RCAIDS	Oxygen-Pro	Farmaktiv	2/06/2011	containers for syringes	1,587
7	RCAIDS	Oxygen-Pro	Farmaktiv	3/06/2011	containers for syringes	36,528
7	RCAIDS	Oxygen-Pro	Farmaktiv	3/06/2011	laboratory supplies	1,614
7	RCAIDS	Oxygen-Pro	Farmaktiv	12/06/2011	latex gloves	429
7	RCAIDS	Pilot Communication	Outdoor Technology	20/05/2011	design and printing of IEM	96,785
7	RCAIDS	Pilot Communication	Outdoor Technology	3/11/2011	mass media campaign	82,748
10	RCAIDS	Pilot Communication	MGS Group, Outdoor Technology	15/02/2012	production of video ads	31,292
10	RCAIDS	Pilot Communication	Outdoor Technology	20/07/2012	design and printing of IEM	179,071
Total, RCAIDS (due to irregularities by vendors)						1,254,684
7	RCAIDS	Fortis Pai		3/05/2011	condoms "Venus #144" (Malaysia)	404,807
7	RCAIDS	Oxygen-Pro (Medtechnika) ¹¹		3/05/2011	syringes "Becton Dickinson" (Spain)	485,338
Total, RCAIDS (due to fabricated focus group approbation reports)						890,145
Grand total, RCAIDS						2,144,829

¹¹ Following the contract award to Oxygen-Pro, this vendor informed RCAIDS that it became no longer a distributor of "Becton Dickinson" products. RCAIDS cancelled this contract and reawarded a contract of the same value to the new distributor, Medtechnika.

The OIG finds that RCAIDS management ordered goods and services from the above vendors in accordance with the formal outcome of procurement exercises, which in most cases may have followed the formal procedure defined in the national procurement law. Nevertheless, in all of the procurements listed above, the OIG noted limited competition and either collusive practices by vendors or fraudulent practices involving the fabrication of focus group approbation reports. In the latter case, the OIG noted RCAIDS intention to procure particular brands of products from particular vendors. The degree of knowledge by RCAIDS management and staff of the above irregularities varied in each case from inattention, to condoning, and to favouritism and potential collusion with vendors or other parties. In some of the cases, RCAIDS management may have focused on ordering goods and services from trusted vendors or due to particular brands offered. As detailed in Annex C, the OIG concluded that most of the contracts listed above were overpriced by the vendors.

As mentioned in Section 01, the OIG identified additional factors that were present during this period and which may have contributed to the procurement irregularities identified. These include: RCAIDS' procurement procedures during this period did not include sufficient guidance, the Global Fund's grant conditions did not include sufficient procurement risk mitigating measures and the oversight arrangements by the Secretariat were limited at the time.

Irregularities by vendors

The OIG identified the following evidence of collusive vendor relationships and procurement irregularities:

- Significant identical elements in bids (including identical grammar mistakes in some cases) and other documents from different vendors, competing for the same procurement award. For two of the procurements (see Table 3 above, contracts awarded to Fortis Pai in 2012), all bidding vendors used the same bid templates which the winning vendor used in other procurements.
- For one procurement, Fortis Pai and Vitena (see Table 3 above, contract awarded to Fortis Pai) offered identical products, almost identical prices (differing by 0.1%) and provided authorization letters from the same manufacturers.
- Some of Pilot Communication's and Outdoor Technology's bids and other documents submitted to RCAIDS showed two addresses used by both vendors. When interviewed by the OIG, Pilot Communication's representative stated they did not have a permanent office.
- Outdoor Technology's representative initially agreed to an interview with the OIG but did not attend and did not respond to further phone calls. Outdoor Technology, although it bid together Pilot Communication, did not intend to enter into contracts with RCAIDS, demonstrating false competition as in the case of one of the procurements where Outdoor Technology's bid was lower than Pilot Communication's bid (see Table 3 above, contract awarded to Pilot Communication in May 2011).
- For one procurement, Pilot Communication and Outdoor Technology (see Table 3 above, contract awarded to Pilot Communication in July 2012) offered very close prices (differing by 1.7%).
- A representative of Oxygen-Pro, Farmaktiv's distributor (who was at the same time a Farmaktiv's representative) submitted bids in the name of Oxygen-Pro via e-mail communications (and in paper format) to the current Procurement Specialist of RCAIDS. RCAIDS procurement files for the same procurements included Farmaktiv's bids for the same products and with identical elements as in Oxygen-Pro's bids. As confirmed by Farmaktiv, at this time it was included in the Kazakhstan Government's register of dishonest suppliers.

- Oxygen-Pro's prices for latex gloves in its bid to RCAIDS exceeded by 205% or 3 times the prices on Farmaktiv's website.
- According to the statements made by vendors, the Director of Central Asia Promotion Plus also presided over another vendor, Telco Pay. Another vendor, Prometey, rented an office from Telco Pay. The three vendors submitted bids with identical elements for the same procurements.
- There were inconsistencies in the statements of a number of vendor representatives (vendors Central Asia Promotion Plus and Telco Pay).

Awareness of the above irregularities, as well as irregularities by RCAIDS staff

Further evidence below demonstrates that the irregularities by vendors were fully or partially known to a number of management and staff members of RCAIDS:

- The OIG found that the abovementioned Tender Committee members must have been fully or partially aware of the extent of the identical elements and very close prices in different vendor bids for the same procurements, and therefore the patent collusion of the bidders. Likewise, the current Procurement Specialist of RCAIDS must have been aware of the identical addresses in documents from Pilot Communication and Outdoor Technology.
- Bids in the names of both Oxygen-Pro and Farmaktiv were submitted by Farmaktiv's representatives that were known at least to the current Procurement Specialist of RCAIDS.
- The most recent Director General of RCAIDS and the Director of Pilot Communication were personal friends, as observed from their e-mail communication shortly after the appointment of the most recent Director General. The Director of Pilot Communication also stated that he knew well the most recent Director General of RCAIDS. Given this and other evidence above, the OIG found that the most recent Director General must have been aware of the collusion in procurements in which Pilot Communication was selected;
- In addition to the findings made in this report, the OIG made observations regarding Pilot Communication and its two competing bidders (MGS Group and Outdoor Technology) in a previous OIG investigation report.¹² As indicated in the report, the above vendors colluded with each other and with one or several RCAIDS staff members in three procurements in July 2012. Furthermore, the Global Fund Secretariat did not authorize RCAIDS to award the contract in another tender in August 2012, in which only Pilot Communication and Outdoor Technology had submitted bids. This was as a result of the Local Fund Agent's review which found that this tender did not follow procurement procedures.

The OIG also noted other irregularities by RCAIDS management and staff members in relation to contracts listed above:

- RCAIDS under-advertised the tender in which a contract for US\$ 787,191 was awarded in 2012 to Fortis Pai. It was advertised only in a low-circulation newspaper (and not in an advertisement section) and on RCAIDS' website. Following this advertisement, only two collusive bids were received from vendors (see Table 3 above).
- The Tender Committee members allowed Oxygen-Pro and Farmaktiv to bid for the same procurements although Oxygen-Pro had informed RCAIDS that it was Farmaktiv's distributor.

¹²http://theglobalfund.org/documents/oig/OIG_GFOIG13051InvestigationKazakhstan_Report_en

- The Tender Committee members made two procurement decisions (see Table 3 above, contracts awarded to Fortis Pai and Oxygen-Pro in May 2011) based on fabricated focus group approbation reports from two NGOs. The OIG did not identify which parties had fabricated the reports, but found that the Tender Committee members could not have been unaware of the extent of the identical elements (including identical text, grammar mistakes and details of approbation results) in these reports, and hence their fabrication. In each case, the reports indicated positive feedback on product samples from one bidder and negative feedback on those from another bidder. Furthermore, for both procurements and on the same day or the day after RCAIDS received from the bidding vendors the product samples for focus group approbation, the most recent Director General of RCAIDS amended the invitations to bid by excluding the price criterion and determining that positive approbation by focus groups would be the only evaluation criterion used for the bids. Hence, the Director General of RCAIDS' decision contributed to the above procurement decisions to award contracts solely on the basis of the fabricated approbation reports.

The OIG also found that RCAIDS procurement procedures (as specified in the Procurement and Supply Management plans), which required that procurements of condoms, syringes, and similar products for targeted end users are made only following positive results from focus group testing, are not in line with good procurement as practiced by other donors. These procedures present a significant risk of manipulation of procurement decisions, including the unwarranted exclusion of bidders. This is also supported by the OIG's other findings on fabricated focus group approbation reports in Sections 01 and 02 of this report. The entities which undertook such approbations were often financially dependent upon RCAIDS.

The OIG referred to the procurement guidelines of other donors e.g. United Nations Population Fund (UNFPA), in which focus groups assist in defining needs and procurement specifications and, exceptionally, may assist in the later procurement stages. According to the OIG's procurement experts, focus group feedback does not necessarily form expert opinions and should be used as an auxiliary measure during the procurement evaluation rather than being the sole or determining criterion upon which procurement decisions are made.

In response to the OIG findings, the Secretariat revisited and updated RCAIDS procurement procedures regarding the use of focus group feedback.

04 Collusive Procurements by NCTP from Vendor JM Auto between 2009 and 2012

The OIG found that four contracts (see Table 4 below) awarded by NCTP to the vendor JM Auto between 2009 and 2012 for a total of US\$ 137,604 to procure respirators (used by medical personnel for anti-tuberculosis protection) were compromised by fraudulent practices by JM Auto and corrupt practices between this vendor and the ex-Procurement Specialist of NCTP (in office between 2007 and 2013).

Table 4 – Collusive procurements by NCTP from vendor JM Auto between 2009 and 2012

Round	PR	Winning vendor	Other fabricated bids	Contract date	Goods/services provided	Contract value (paid), US\$
6	NCTP	JM Auto		29/04/2009	respirators "3M 9320"	72,151
8	NCTP	JM Auto	Appian International, Auto Depot	22/06/2010	respirators "3M 9320"	21,815
8	NCTP	JM Auto	Appian International	6/09/2011	respirators "3M 9320"	21,696
8	NCTP	JM Auto	Appian International	26/03/2012	respirators "3M 9320"	21,942
Total, NCTP						137,604

NCTP management had preferred to procure respirators of a particular brand and type for a number of years, due to their suitability for anti-tuberculosis protection, as explained by NCTP. The OIG observed, however, breaches of procurement procedures and insufficient oversight by NCTP management of the work of the ex-Procurement Specialist who abused his office and engaged in corrupt practices with a vendor who distributed the respirators. As detailed in Annex C, the OIG concluded that the above contracts were overpriced by JM Auto.

As mentioned in Section 01, the OIG identified additional factors that were present during this period and which may have contributed to the procurement irregularities identified. These include: NCTP's procurement procedures during this period did not include sufficient guidance, the Global Fund's grant conditions did not include sufficient procurement risk mitigating measures and the oversight arrangements by the Secretariat were limited at the time.

Corrupt and fraudulent practices in procurements

The OIG identified the following evidence of collusion and procurement irregularities:

- No technical specifications were developed by NCTP prior to some of the procurements. For example, for the procurement in 2009, the NCTP working group decided which respirators to procure after receiving bids from several vendors.
- An inappropriate facilitation payment offered by the Sales Director of JM Auto and accepted by the ex-Procurement Specialist (with respect to the contract awarded to JM Auto on 29 April 2009, see Table 4 above):
 - In April 2009, the ex-Procurement Specialist communicated his private e-mail address to the Sales Director of JM Auto, who immediately responded and proposed inflating the price of respirators offered by JM Auto and sharing inappropriate facilitation payments between the ex-Procurement Specialist and JM Auto's representatives. The Sales Director provided a detailed calculation on how the price could be inflated (initially, he proposed an increase of 83%) and what the facilitation payments would be (initially, he proposed US\$ 30,000 to the ex-Procurement Specialist, leaving US\$ 6,800 for the Sales Director's "fellows"). JM Auto submitted a bid to NCTP around the same time with prices for two variations of respirators. One of the prices in the bid was the inflated price in the Sales Director's e-mail. NCTP finally selected the other variation of respirators included in the bid (the price of which was even higher). As detailed in Annex C, the OIG concluded that this US\$ 72,151 contract was overpriced by US\$ 34,024;
 - The Sales Director of JM Auto confirmed that the ex-Procurement Specialist accepted the inappropriate facilitation payment but did not disclose its final amount or with whom it would be shared. The OIG estimated that the actual facilitation payment to the ex-Procurement Specialist (for the other variation of respirators) could have been approximately US\$ 17,000 – 18,000, when applying the same principle of calculation as in the Sales Director's e-mail;
 - The Sales Director also stated that this was how "the business was done with everyone, not just with NCTP", that "he cannot remember a case during the last nine years with dealings with 200 clients or so, where business would have been done otherwise" [i.e. offering and giving inappropriate facilitation payments], and that none of his business transactions would take place if the offer is not deemed "interesting". As detailed in Annex C, the OIG found that all contracts awarded to JM Auto between 2009 and 2012 were overpriced;
 - The Sales Director of JM Auto also stated that he knew "everybody" in NCTP, including its three latest Directors, and had done business with NCTP since 1998. He stated that he knew the ex-Procurement Specialist since the latter's appointment in 2007;

- The ex-Procurement Specialist also had forwarded his e-mail communication with the Sales Director to the e-mail address of the ex-Procurement Specialist's brother (who was unrelated to NCTP);
- The ex-Procurement Specialist also made false statements to the OIG claiming he was unaware of the above e-mail communications, although the evidence proved the opposite.
- Between 2010 and 2012, JM Auto was selected as the winning vendor among the bids submitted in the names of JM Auto and the purported vendors Appian International and Auto Depot. The losing vendor bids were poorly prepared. Each time, all bids were for the same products and showed significant identical elements. The OIG established that the two losing vendors did not exist and their bids were fabricated:
 - The OIG could not locate the vendors or contact their representatives. The phone numbers in Appian International's bids belonged to unrelated parties. The address in Auto Depot's bid did not exist, and there was no response at the phone numbers;
 - Signatures in Appian International's bids closely resembled the signature of the Chief Accountant of JM Auto. The Chief Accountant confirmed that they resembled her signature and the Sales Director of JM Auto confirmed that the signatures in the bids and the signature of the Chief Accountant were the same;
 - The Sales Director of JM Auto also stated that "people who do business can open various companies; the registration of a company now costs US\$ 100" and that "it is not relevant what companies participate in tenders, because it is possible to invent as many companies as necessary".

05 Other Collusive Procurements by NCTP between 2010 and 2012

The OIG found that seven contracts (see Table 5 below) awarded by NCTP to six vendors between 2010 and 2012 for a total of US\$ 2,332,246 were compromised by collusive practices by vendors (ten losing vendors were also either involved in collusion, or their bids were fabricated). Part or all of these procurements may or may not be part of the bid-rigging scheme described in Section 01. The OIG investigation was inconclusive in this regard. A number of the abovementioned vendors had relationships to the Ring Leaders referred to in Section 01.

The OIG identified that all or part of the above irregular procurements took place also with the full or partial knowledge of at least the following NCTP management and staff members who did not disclose such irregularities to the Global Fund:

- the current Director of NCTP; and
- the ex-Procurement Specialist of NCTP (in office between 2007 and 2013).

Table 5 – Other collusive procurements by NCTP between 2010 and 2012

Round	PR	Winning vendor	Other collusive or fabricated bids	Contract date	Goods/services provided	Contract value (paid), US\$
8	NCTP	Agat	Aydarkul, Global Construction Plus	13/07/2010	project design for renovation works	178,450
8	NCTP	Agat	Aldaspan Kurylys, New Construction	23/12/2010	project design for renovation works	37,445
8	NCTP	Global	Abdusami, Razat, Sana	30/12/2010	renovation works	1,617,605

Round	PR	Winning vendor	Other collusive or fabricated bids	Contract date	Goods/services provided	Contract value (paid), US\$
		Construction Plus	Consulting			
8	NCTP	IE AAA ¹³	IE BBB, IE CCC	12/12/2011	social packages for TB patients	128,854
8	NCTP	IE DDD	IE EEE, IE FFF	19/04/2012	social packages for TB patients	125,053
8	NCTP	IE EEE	IE FFF, IE GGG	13/06/2012	social packages for TB patients	121,031
8	NCTP	IE GGG	IE EEE, IE HHH	25/09/2012	social packages for TB patients	123,808
Total, NCTP						2,332,246

A number of the above procurements were under-advertised and all of them underwent limited competition resulting in receipt of only collusive and fabricated bids from vendors, some of which had relationship to the Ring Leaders referred to in Section 01. Considering the size of these procurements and the OIG findings in Section 01, the OIG finds that the above vendors had support from NCTP management to obtain business. The management may have focused on ordering goods and services from trusted vendors. As detailed in Annex C, the OIG concluded that the contracts for delivery of social packages for tuberculosis patients were overpriced by the vendors.

As mentioned in Section 01, the OIG identified additional factors that were present during this period and which may have contributed to the procurement irregularities identified. These include the facts that NCTP's procurement procedures during this period did not include sufficient guidance, the Global Fund's grant conditions did not include sufficient procurement risk mitigating measures and the oversight arrangements by the Secretariat were limited at the time.

Irregularities by vendors

The OIG identified the following evidence of vendor relationships, collusion and procurement irregularities:

- There were significant identical elements (including identical mistakes in some cases) in bids and other documents from different vendors, competing for the same procurement award.
- In all but one procurement, exactly three bids were always received, indicating bid simulation and, for the procurements of social packages, also a bid rotation scheme. This scheme was where three bids were received for each procurement with a different vendor winning each time, and all of the bids coming from individual entrepreneurs rather than from retail companies or similar businesses.
- The bids of the individual entrepreneurs (between 2011 and 2012) included identical elements between all bids in procurements of social packages, including two earlier procurements of social packages during 2010 (see Section 01, Table 1) where bids were submitted by Amanzhol, Sana Consulting, Sinotech and Zarin-D (vendors related to the Ring Leaders, as found in Section 01). See illustration in Figure 3 in Annex E.
- The Ring Leader *Gamma* requested the tender documentation from NCTP on behalf of the winning vendor Global Construction Plus. This vendor subcontracted renovation works for US\$ 1,473,632 (91% of its own contract) to another vendor Boliustada 2030, whose Director was also the previous Director of Amanzhol, the Commercial Director of Zarin-D (owned by the Ring Leader *Delta*), and had requested the tender documentation from NCTP on behalf of Alim Eurasia Service for another tender. The latter three vendors (as well as Sana Consulting who also bid for the renovation works) were all related to the Ring Leaders, as found in Section 01.

¹³ IE – various individual entrepreneurs. The OIG referred to symbolic titles of them instead of their actual names.

- IE AAA and IE BBB stated that the same accountant prepared their bids for the same procurement. The Director of Agat stated that its bid(s) was (were) prepared by a lawyer who may have also worked for Agat's competitors. The Director of New Construction confirmed that the bid in the name of his company had been fabricated.
- Agat and Aydarkul offered identical prices in their bids for project design services, and Abdusami and Razat for renovation works, which the OIG finds implausible for purportedly independent bids for these types of services.
- Aldaspan Kurylys and New Construction requested the tender documentation for project design services on the same day or the day before when they submitted bids, indicating that such bids were prepared in advance with assistance from other parties.
- Most of the individual entrepreneurs clearly showed weak supplier capacity for the required deliveries. IE BBB, IE FFF and IE HHH submitted bids just months after their registration as individual entrepreneurs. In early 2013, shortly after IE DDD and IE GGG had implemented their contracts, they were no longer in business.
- There were inconsistencies in statements of a number of vendor representatives (vendors Aldaspan Kurylys, IE AAA, IE BBB, IE CCC and IE GGG).
- A number of vendors (Aydarkul, Razat, IE EEE and IE FFF) avoided meeting or phone interviews with the OIG. IE FFF and IE HHH also did not respond to the OIG's requests for clarifications in writing.
- The OIG could not contact Abdusami's representatives, and there was no response from its phone numbers.

Awareness of the above irregularities and irregularities by NCTP staff

- The ex-Procurement Specialist of NCTP under-advertised the tenders in which Agat and Global Construction Plus were selected (e.g. in irrelevant sections of small newspapers or only on NCTP website). Following these advertisements, only collusive and fabricated bids were received (see Table 5 above). Given this and the totality of evidence detailed in this Section, the OIG finds that the ex-Procurement Specialist who was involved in procurement operations on a direct and recurrent basis, was fully or partially aware of at least a number of procurement irregularities by vendors detailed above.
- Also, considering the size of the above procurements, which all took place during the tenure of the current Director of NCTP, the OIG finds that by all reasonable inferences the Director of NCTP was also fully or partially aware of at least a number of such irregularities.

IV. Conclusion

Based on the preponderance of evidence,¹⁴ the OIG concluded that the two Principal Recipients did not act in compliance with the Standard Terms and Conditions (STC) of their program grant agreements, as detailed below:

- RCAIDS – with the STC of the agreements for grants KAZ-202-G01-H-00, KAZ-708-G03-H and KAZ-H-RAC, specifically Articles 18 (a) i, ii, vi, vii; 21 (a); 21 (b) iv, v, vi; and 21 (c) ii;
- NCTP – with the STC of the agreements for grants KAZ-607-G02-T and KAZ-809-G04-T, specifically Articles 18 (a) i, ii, vi, vii; 21 (a); 21 (b) iii, iv, v, vi; and 21 (c) ii.

Considering that the contract awards reviewed in this report were compromised by collusive, fraudulent and corrupt practices, the OIG finds that the prices charged by suppliers under such contracts may not have been competitive market prices. Expenditure under such contracts using Global Fund grants are non-compliant and total US\$ 16,465,832. The OIG has informed Global Fund management of the estimated loss and proposes as a recoverable sum the overpricing broken down as follows:

- out of 57 contracts (totaling US\$ 10,565,493) awarded by RCAIDS, the OIG estimates the overpricing for 41 contracts and found that at least 36 of these contracts were overpriced by US\$ 4,179,941 in total;
- out of 19 contracts (totaling US\$ 5,900,339) awarded by NCTP, the OIG estimates the overpricing for at least 16 contracts and found that all of them were overpriced by US\$ 1,252,156 in total.

The OIG's methodology to calculate the overpricing is detailed in Annex B and summary calculations of such estimates are in Annex C.

¹⁴ Reasonable conclusions supported by adequate evidence

V. Table of Agreed Actions

As a result of this investigation, the OIG proposed a number of actions to the Secretariat. The Secretariat has already implemented various risk mitigating measures for the Kazakhstan portfolio and completed a number of actions. Remaining actions to be implemented by the Secretariat are as follows:

No.	Category	Agreed action	Due date/ Secretariat's comments
1.	Collusion/ Fraud/ Corruption/ Non- Compliance with Grant Agreements	The Secretariat will finalize and pursue, from all entities responsible, an appropriate recoverable amount. This amount will be determined by the Secretariat in accordance with its evaluation of applicable legal rights and obligations and associated determination of recoverability set out in Annex C.	3 months following the publication of the report
2.	Collusion/ Fraud/ Corruption/ Non- Compliance with Grant Agreements	The Secretariat will ensure that the Principal Recipient employees identified in this report as having had a role in carrying out or facilitating the wrongdoings described in this report are no longer involved with the management of grant funds. Notably, the Country Team will refrain from further association with: <ul style="list-style-type: none"> • the most recent Director General of RCAIDS; • the current Deputy Director General of RCAIDS; • the current Procurement Specialist of RCAIDS; • two ex-Directors General of RCAIDS (in office between 2006 and 2009, and between 2009 and 2010, respectively); • the ex-PIU Manager of RCAIDS (in office between 2009 and 2014); • the ex-Financial Manager of RCAIDS (in office between 2007 and 2013); • three ex-Procurement Specialists of RCAIDS (in office between 2007 and 2008, during 2009, and between 2009 and 2010, respectively); • the current Director of NCTP; and • the ex-Procurement Specialist of NCTP (in office between 2007 and 2013). 	3 months following the publication of the report (Partially completed)
3.	Collusion/ Fraud/ Corruption/ Non- Compliance with Grant Agreements	Finalize the contract for an independent procurement agent for RCAIDS to monitor all major procurements.	3 months following the publication of the report
4.	Collusion/ Fraud/ Corruption	Given the widespread, systematic nature of the findings detailed in this report, the Secretariat will address the supplier misconduct in accordance with the Secretariat's policy on supplier misconduct and the Sanctions Panel Procedure.	3 months following the publication of the report
5.	Collusion/ Fraud/ Corruption	Pending a decision following the conclusion of Secretariat's process around supplier misconduct, the Secretariat will immediately ensure that the vendors (known to be associated with <i>Alpha</i> , <i>Beta</i> , <i>Gamma</i> and <i>Delta</i>) involved in supplier misconduct, are no longer involved with procurement under the Global Fund supported programs.	3 months following the publication of the report
6.	Collusion/ Fraud/ Corruption	The Secretariat will, together with the OIG, draft guiding principles for Principal Recipients, providing information on how to make a basic determination of a supplier's legitimacy, ownership, financial security and capacity.	3 months following the publication of the report

Annex A Investigation Methodology

The OIG Investigations

The Investigations Unit of the OIG is responsible for conducting investigations of alleged fraud, abuse, misappropriation, corruption and mismanagement (collectively, “fraud and abuse”) within Global Fund financed programs and by Principal Recipients and Sub-Recipients, collectively “grant implementers”, Country Coordinating Mechanisms and Local Fund Agents, as well as suppliers and service providers.¹⁵

While the Global Fund does not typically have a direct relationship with the recipients’ suppliers, the scope of OIG’s work¹⁶ encompasses the activities of those suppliers with regard to the provision of goods and services. The authority required to fulfill this mandate includes access to suppliers’ documents and officials.¹⁷ The OIG relies on the cooperation of these suppliers to properly discharge its mandate.¹⁸

The OIG’s investigations aim to: (i) identify the specific nature and extent of fraud and abuse affecting Global Fund grants, (ii) identify the entities and individuals responsible for such wrongdoings, (iii) determine the amount of grant funds that may be compromised by fraud and abuse, and (iv), place the Organization in the best position to obtain recoveries through identification of the location or uses to which the misused funds have been put.

The OIG conducts administrative, not criminal, investigations. Its findings are based on facts and related analysis, which may include drawing reasonable inferences based upon established facts. Findings are established by a preponderance of credible and substantive evidence. All available evidence is considered by the OIG, including inculpatory and exculpatory information.¹⁹

The OIG finds, assesses and reports on facts. On that basis, it makes determination on the compliance of expenditures with the grant agreements and details risk-prioritized Agreed Actions.

Such Agreed Actions may notably include identification of expenses deemed non-compliant for considerations of recovery, recommended administrative action related to grant management and recommendations for action under the Code of Conduct for Suppliers²⁰ or the Code of Conduct for Recipients of Global Fund Resources²¹ (the “Codes”), as appropriate. The OIG does not determine how the Secretariat will address these determinations and recommendations. Nor does it make judicial decisions or issue sanctions.²²

Agreed Actions are agreed with the Secretariat to identify, mitigate and manage risks to the Global Fund and its recipients’ activities. The OIG defers to the Secretariat and, where appropriate, the recipients, their suppliers and/or the concerned national law enforcement agencies, for action upon the findings in its reports.

¹⁵ Charter of the Office of the Inspector General (19 March 2013), available at http://theglobalfund.org/documents/oig/OIG_OfficeOfInspectorGeneral_Charter_en/, accessed 01 November 2013.

¹⁶ Charter of the Office of the Inspector General (19 March 2013) § 2, 9.5 and 9.7.

¹⁷ Ibid., § 17.1 and 17.2.

¹⁸ Global Fund Code of Conduct for Suppliers (15 December 2009), § 17-18, available at http://theglobalfund.org/documents/corporate/Corporate_CodeOfConductForSuppliers_Policy_en/, accessed 01 November 2013.

Note: Every grant is subject to the Global Fund’s Standard Terms and Conditions (STC) of the Program Grant Agreement signed for that grant. The above Code of Conduct may or may not apply to the grant.

¹⁹ These principles comply with the *Uniform Guidelines for Investigations*, Conference of International Investigators, June 2009; available at <http://www.un.org/Depts/oios/pages/uniformguidelines.html>, accessed 01 November 2013.

²⁰ See fn. 18, supra.

²¹ Code of Conduct for Recipients of Global Fund Resources (16 July 2012) available at http://theglobalfund.org/documents/corporate/Corporate_CodeOfConductForRecipients_Policy_en/, accessed 01 November 2013.

Note: Every grant is subject to the STC of the Program Grant Agreement signed for that grant. The above Code of Conduct may or may not apply to the grant.

²² Charter of the Office of the Inspector General (19 March 2013) § 8.1

The OIG is an administrative body with no law enforcement powers. It cannot issue subpoenas or initiate criminal prosecutions. As a result, its ability to obtain information is limited to the rights to it under the grant agreements agreed to with recipients by the Global Fund, including the terms of its Codes, and on the willingness of witnesses and other interested parties to voluntarily provide information.

The OIG also provides the Global Fund Board with an analysis of lessons learned for the purpose of understanding and mitigating identified risks to the grant portfolio related to fraud and abuse.

Finally, the OIG may make referrals to national authorities for prosecution of any crimes or other violations of national laws, and supports such authorities as necessary throughout the process, as appropriate.

Applicable Concepts of Fraud and Abuse

The OIG bases its investigations on the contractual commitments undertaken by recipients and suppliers. It does so under the mandate set forth in its Charter to undertake investigations of allegations of fraud and abuse in Global Fund supported programs.

As such, it relies on the definitions of wrongdoing set out in the applicable grant agreements with the Global Fund and the contracts entered into by the recipients with other implementing entities in the course of program implementation.

Such agreements with Sub-Recipients must notably include pass-through access rights and commitments to comply with the Codes. The Codes clarify the way in which recipients are expected to abide by the values of transparency, accountability and integrity which are critical to the success of funded programs. Specifically, the Code of Conduct for Recipients prohibits recipients from engaging in corruption, which includes the payment of inappropriate facilitation payments and kickbacks in relation to procurement activities.²³

The Codes notably provide the following and other definitions of the relevant concepts of wrongdoings:²⁴

- *“Anti-competitive practice” means any agreement, decision or practice which has as its object or effect the restriction or distortion of competition in any market.*
- *“Collusive practice” means an arrangement between two or more persons or entities designed to achieve an improper purpose, including influencing improperly the actions of another person or entity.*
- *“Conflict of Interest”: A conflict of interest arises when a Recipient or Recipient Representative participates in any particular Global Fund matter that may have a direct and predictable effect on a financial or other interest held by: (a) the Recipient; (b) the Recipient Representative; or (c) any person or institution associated with the Recipient or Recipient Representative by contractual, financial, agency, employment or personal relationship. For instance, conflicts of interest may exist when a Recipient or Recipient Representative has a financial or other interest that could affect the conduct of its duties and responsibilities to manage Global Fund Resources. A conflict of interest may also exist if a Recipient or Recipient Representative’s financial or other interest compromises or undermines the trust that Global Fund Resources are managed and utilized in a manner that is transparent, fair, honest and accountable.*

²³ Code of Conduct for Recipients of Global Fund Resources, section 04.

²⁴ Available at http://theglobalfund.org/documents/corporate/Corporate_CodeOfConductForRecipients_Policy_en/ and http://theglobalfund.org/documents/corporate/Corporate_CodeOfConductForSuppliers_Policy_en/

- *“Corrupt practice” means the offering, promising, giving, receiving or soliciting, directly or indirectly, of anything of value or any other advantage to influence improperly the actions of another person or entity.*
- *“Fraudulent practice” means any act or omission, including a misrepresentation that knowingly or recklessly misleads, or attempts to mislead, a person or entity to obtain a financial or other benefit or to avoid an obligation.*
- *“Misappropriation” is the intentional misuse or misdirection of money or property for purposes that are inconsistent with the authorized and intended purpose of the money or assets, including for the benefit of the individual, entity or person they favor, either directly or indirectly.*

Determination of Compliance

The OIG presents factual findings which identify compliance issues by the recipients with the terms of the Global Fund’s Standard Terms and Conditions (STC) of the Program Grant Agreement. Such compliance issues may have links to the expenditure of grant funds by recipients, which then raises the issue of the eligibility of these expenses for funding by the Global Fund. Such non-compliance is based on the provisions of the STC.²⁵ The OIG does not aim to conclude on the appropriateness of seeking refunds from recipients, or other sanctions on the basis of the provisions of the Program Grant Agreement.

Various provisions of the STC provide guidance on whether a program expense is eligible for funding by the Global Fund. It is worth noting that the terms described in this section are to apply to Sub-Recipients as well as Principal Recipients.²⁶

At a very fundamental level, it is the Principal Recipient’s responsibility “to ensure that all Grant funds are prudently managed and shall take all necessary action to ensure that Grant funds are used solely for Program purposes and consistent with the terms of this Agreement”.²⁷

In practice, this entails abiding by the activities and budgetary ceilings proposed in the Requests for Disbursement, which in turn must correspond to the Summary Budget(s) attached to Annex A of the Program Grant Agreement. While this is one reason for expenses to be ineligible, expending grant funds in breach of other provisions of the Program Grant Agreement also results in a determination of non-compliance.

Even when the expenses are made in line with approved budgets and work plans, and properly accounted for in the program’s books and records, such expenses must be the result of processes and business practices which are fair and transparent.

The STC specifically require that the Principal Recipient ensures that: (i) contracts are awarded on a transparent and competitive basis, [...] and (iv) that the Principal Recipient and its representatives and agents do not engage in any corrupt practices as described in Article 21(b) of the STC in relation to such procurement.²⁸

The STCs explicitly forbid engagement in corruption or any other related or illegal acts when managing Grant Funds:

²⁵ Note: The STC are revised from time to time. Every grant is subject to the STC of the Program Grant Agreement signed for that grant.

²⁶ Standard Terms and Conditions (2012.09) at Art. 14(b):

http://www.theglobalfund.org/documents/core/grants/Core_StandardTermsAndConditions_Agreement_en

²⁷ Id. at Art. 9(a) and Art 18(f)

²⁸ Id. at Art. 18(a)

“The Principal Recipient shall not, and shall ensure that no Sub-Recipient or person affiliated with the Principal Recipient or any Sub-Recipient [...] participate(s) in any other practice that is or could be construed as an illegal or corrupt practice in the Host Country.”²⁹

Amongst prohibited practices is the rule that the Principal Recipient shall not and shall ensure that no person affiliated with the Principal Recipient “engage(s) in a scheme or arrangement between two or more bidders, with or without the knowledge of the Principal Recipient or the Sub-Recipient, designed to establish bid prices at artificial, non-competitive levels.”³⁰

The Global Fund’s Code of Conduct for Suppliers and Code of Conduct for Recipients further provide for additional principles by which recipients and contractors must abide, as well as remedies in case of breaches of said fundamental principles of equity, integrity and good management. The Codes also provide useful definitions of prohibited conducts.³¹

The Codes are integrated into the STC through Article 21(d) under which the Principal Recipient is obligated to ensure that the Global Fund’s Code of Conduct for Suppliers is communicated to all bidders and suppliers.³² It explicitly states that the Global Fund may refuse to fund any contract with suppliers found not to be in compliance with the Code of Conduct for Suppliers. Similarly, Article 21(e) provides for communication of the Code of Conduct for Recipients to all Sub-Recipients, as well as mandatory application through the Sub-Recipient agreements.³³

Principal Recipients are contractually liable to the Global Fund for the use of all grant funds, including expenses made by Sub-Recipients and contractors.³⁴

The factual findings made by the OIG following its investigation and summarized through this report can be linked to the prohibited conducts or other matters incompatible with the terms of the Program Grant Agreements.

Reimbursements or Sanctions

The Secretariat of the Global Fund is subsequently tasked with determining what management actions or contractual remedies will be taken in response to those findings.

Such remedies may notably include the recovery of funds compromised by contractual breaches. Article 27 of the STC stipulates that the Global Fund may require the Principal Recipient “to immediately refund to the Global Fund any disbursement of the Grant funds in the currency in which it was disbursed [in cases where] there has been a breach by the Principal Recipient of any provision of this (sic) Agreement [...] or the Principal Recipient has made a material misrepresentation with respect to any matter related to this Agreement.”³⁵

According to Article 21(d), “in the event of non-compliance with the Code of Conduct, to be determined by the Global Fund in its sole discretion, the Global Fund reserves the right not to fund the contract between the Principal Recipient and the Supplier or seek the refund of the Grant funds in the event the payment has already been made to the Supplier.”³⁶

²⁹ Id., at Art. 21 (b).

³⁰ Id. at Art. 21(b)

³¹ Available at http://www.theglobalfund.org/documents/corporate/Corporate_CodeOfConductForSuppliers_Policy_en ; http://www.theglobalfund.org/documents/corporate/Corporate_CodeOfConductForRecipients_Policy_en

³² Standard Terms and Conditions (2012.09) at Art. 21(d)

³³ Id. at Art. 21(e)

³⁴ Id. at Art. 14

³⁵ Id. at Art. 27(b) and (d)

³⁶ Id.

Furthermore, the UNIDROIT principles (2010), the principles of law governing the grant agreement, in their article 7.4.1, provide for the right of the Global Fund to seek damages from the Principal Recipient in case non-performance, in addition to any other remedies the Global Fund may be entitled to.

Additional sanctions, including with respect to Suppliers, may be determined pursuant to the Sanction Procedure of the Global Fund, for breaches to the Codes.

In determining what non-compliant expenditures are to be proposed as recoverable, the OIG advises the Secretariat that such amounts typically should be: (i) amounts, for which there is no reasonable assurance about delivery of goods or services (unsupported expenses, fraudulent expenses, or otherwise irregular expenses without assurance of delivery), (ii) amounts which constitute overpricing between the price paid and comparable market price for such goods or services, or (iii) amounts which are ineligible (non-related) to the grant scope or not included in the approved work plans and budgets.

Annex B Methodology for the Overpricing Estimates

The OIG undertook independent price assessments for 41 out of 57 contracts awarded by RCAIDS and 16 out of 19 contracts awarded by NCTP (see Annex C for the summary of the OIG calculations). The OIG followed the methodology summarized below to establish the overpricing estimates. Further details on the methodology, the sources of the pricing information and calculations are with the OIG. The OIG consistently adopted a conservative approach to the price assessments to ensure they are appropriate and fair to the Principal Recipients.

RCAIDS contracts

The OIG undertook price assessments for:

- 26 contracts for the procurement of medical products totaling US\$ 6,641,072 (the OIG found that 22 of these contracts were overpriced by a total of US\$ 1,681,548);
- 14 contracts for the procurement of design and printing of IEM totaling US\$ 3,337,005 (the OIG found that 13 of these contracts were overpriced by a total of US\$ 2,495,250); and
- one contract for the procurement of vehicle transportation service amounting to US\$ 5,138 (the OIG found that this contract was overpriced by US\$ 3,143).

Total estimate of overpricing: US\$ 4,179,941.

The OIG methodology comprised:

For all products:

- In some of the contracts established by RCAIDS it was not clear if the value added tax (VAT) was included in the contract value. Therefore, in these cases, the OIG followed a conservative approach and excluded an estimated VAT amount from the contract value, on the assumption that the VAT had been included in the contract and recovered from the Kazakh Government.

For the medical products:

- The OIG engaged two groups of experts on the prices of medical products, and in the Central Asia region in particular, to obtain the most appropriate comparable market prices (reference prices) for products and accompanying services purchased by RCAIDS under the contracts reviewed in this report. The groups of experts obtained reference prices for products with technical specifications identical to, or as similar as possible to, the products procured.
- The OIG used the estimates of the second group of experts for most of the products, considering that it undertook a more conservative assessment, resulting in smaller overpricing estimates. The OIG used the estimates of the first group of experts for some of the products, where its assessment was found more appropriate (e.g. for locally made products).
- The second group of experts obtained comparable prices in the Kazakhstan market for nearly all of the products, taking into account the requirement of local product registration for sale in Kazakhstan. For nearly all of the products, the group estimated the cost of transportation to the recipient destinations at 5% of the comparable market prices. Such transportation cost estimates were conservative and usually exceeded the estimates based on pricelists of transportation companies for transportation of products in specific climate conditions.
- The first group of experts obtained comparable prices in the international market for most of the products and included the estimated importation costs. For locally made products, the group

obtained prices in the Kazakhstan market. The group estimated the cost of transportation to the recipient destinations based on a pricelist of a recognized transportation company in Kazakhstan.

- The OIG followed a conservative approach and did not retro-adjust the comparable market prices for inflation between the time when RCAIDS entered into the contracts with suppliers and the time for which the comparable market prices were obtained. Retro-adjustments, if any, would have resulted in larger overpricing estimates.
- As a reference price for the lubricant gel procured by RCAIDS, the OIG used the lowest price for this product in RCAIDS contracts with suppliers, which was the price in the contract awarded to Nurstom on 31 May 2007. To compare this reference price with prices in other contracts, the OIG used the exchange rate of 31 May 2007 in order to take into account the changes in the exchange rate between this date and the dates of the other contracts.

For the design and printing of IEM:

- The OIG obtained independent quotations for the design and printing of IEM from seven printing companies in Almaty, for products with technical specifications identical to, or as close as possible to, the products procured. The prices quoted by the seventh company appeared not to include the cost of design and were therefore excluded from the OIG assessment.
- From each company, the OIG obtained unit prices for each product and for various sizes of orders, which were close to the order sizes in RCAIDS' contracts with suppliers on the basis that unit prices of design and printing of IEM may vary significantly depending on the order size. The OIG calculated the average unit prices for each product and for various sizes of orders based on the prices obtained from six companies. On the basis of these average unit prices and the order sizes in RCAIDS contracts, the OIG estimated the comparable market values of products included in RCAIDS contracts.
- The OIG did not assess prices or transportation costs for billboards, audio tapes and video tapes, for which it could not obtain comparable prices.
- The OIG also obtained the estimated weights of the products from the printing companies and calculated the average unit weights for each product. Based on the average weight data, the OIG estimated the weight of cargos of products in RCAIDS contracts for each destination. Based on this weight data and the pricelist of a recognized transportation company in Kazakhstan, the OIG estimated the cost of transportation to recipient destinations for products in the RCAIDS contracts.
- Considering that the prices of printing products and transportation costs usually follow inflation, the OIG retro-adjusted the comparable market prices of the design and printing of IEM and the comparable transportation costs for inflation³⁷ between the time when RCAIDS made the contracts with suppliers and the time for which the independent quotations and the pricelist of the transportation company were obtained. The OIG did not retro-adjust for inflation the comparable market prices of CD-ROMs, considering that their prices may have not have increased during this time.

For the transportation of vehicle:

- The OIG obtained two independent quotations for the same itinerary of vehicle transportation and retro-adjusted the average price for inflation³⁸ between the time when RCAIDS entered into the contract with the supplier and the time for which the independent quotations were obtained.

³⁷ The OIG estimated the price changes based on the consumer price indices publicized by the National Bank of the Republic of Kazakhstan (<http://www.nationalbank.kz/?docid=277>).

³⁸ Id.

NCTP contracts

The OIG undertook estimates for:

- nine contracts for the procurement of medical products totaling US\$ 2,277,718 (the OIG found that all these contracts were overpriced by a total of US\$ 851,207);
- six contracts for the procurement of social packages for tuberculosis patients totaling US\$ 1,730,420 (the OIG found that all these contracts were overpriced by a total of US\$ 365,878); and
- one contract for the procurement of logistics services amounting to US\$ 58,701 (the OIG found that this contract was overpriced by US\$ 35,071).

Total estimate of overpricing: US\$ 1,252,156.

The OIG methodology included:

For the medical products:

- The OIG engaged two groups of experts on prices of medical products, and in the Central Asia region in particular, to obtain the most appropriate comparable market prices (reference prices) for products and accompanying services purchased by NCTP under contracts reviewed in this report. The groups of experts obtained reference prices for products with technical specifications identical to, or as similar as possible to, the products procured.
- The OIG used the estimates of the second group of experts for Becton Dickinson (USA) reagents/consumables for tuberculosis diagnostics, taking into account the requirement of local product registration for sale in Kazakhstan and considering that the second group's assessment was more conservative, resulting in smaller overpricing estimates. For these products, the second group of experts used as a reference the Becton Dickinson (USA) 2009-2010 product catalogue prices, adjusted with importation cost estimated at 13%, transportation cost to recipient destinations estimated at 6%, and a profit margin estimated at 10%. These estimates were conservative and exceeded the estimates based on the pricelists of transportation companies for the transportation of medical products under specific climate conditions.
- The OIG used the estimate of the first group of experts for the Becton Dickinson (USA) bacterial analyzer "BD Bactec MGIT", since the Becton Dickinson (USA) 2009-2010 product catalogue used by the second group of experts did not list a reference price for this product. The OIG understands that the prices negotiated since 2010 by the Foundation for Innovative New Diagnostics (FIND) for Becton Dickinson (USA) products were not applicable to Kazakhstan, considering the manufacturer's pricing policies. However, the first group of experts multiplied the FIND negotiated 50% price for the above bacterial analyzer by two and, thus, used the "100% price" as a reference price. The OIG further adjusted this price with importation cost estimated at 13%, transportation cost to recipient destinations estimated at 6%, and a profit margin estimated at 10%.
- The OIG used the estimates of the first group of experts for 3M brand respirators, for which local product registration was not required. The group used as a reference an international price, adjusted with estimated importation costs and transportation costs, to recipient destinations calculated based on a pricelist of a recognized transportation company in Kazakhstan.
- The OIG followed a conservative approach and did not retro-adjust the comparable market prices for inflation between the time NCTP entered into the contracts with suppliers and the time for which the comparable market prices were obtained. In any case, the two groups of experts obtained comparable prices for periods as close as possible to when NCTP procured the goods (2010 prices

for Becton Dickinson (USA) products and 2012 prices for 3M brand respirators). Retro-adjustment, if any, would have resulted in larger overpricing estimates.

For the social packages for tuberculosis patients:

- The OIG obtained online as well as supermarket retail prices in Almaty for the products included in the social packages with technical specifications either identical to, or as close as possible to, the products procured, and retro-adjusted them for inflation³⁹ between the time when NCTP entered into the contracts with the suppliers and the time for which the comparable market prices were obtained, considering that prices of food and hygiene items typically raise with inflation.
- The OIG added a 20% margin for the cost of packaging and handling the packages to estimate the comparable market price of the social packages. The OIG considers that, following this principle, the actual margin would have been even higher, because the suppliers would most probably have obtained wholesale prices for the products, compared to the retail prices that the OIG used in its comparison.
- The OIG estimated the weight of the social packages, adding an estimated 20% for container weight, and calculated the estimated transportation cost to recipient destinations based on the weight of packages and a pricelist of a recognized transportation company in Kazakhstan. The OIG retro-adjusted the transportation rates for inflation⁴⁰ between the time when NCTP made the contracts with suppliers and the time for which the comparable transportation rates were obtained, considering that transportation costs typically raise with inflation.

For the logistics services:

- The OIG estimated that the weight of each box of tuberculosis drugs was 15 kg (this estimate was also found reasonable by the Secretariat), since no weight details of boxes to be transported were provided in the contract, and calculated the estimated transportation costs to recipient destinations based on this estimated weight and a pricelist of a recognized transportation company in Kazakhstan. The OIG doubled the estimated transportation cost, considering that medicines typically have to be transported under specific climate conditions, and in line with the same costing principle followed by at least one transportation company in Kazakhstan. The OIG retro-adjusted the transportation rates for inflation⁴¹ between the time when NCTP entered into the contracts with suppliers and the time for which the comparable transportation rates were obtained, considering that transportation costs typically raise with inflation.

³⁹ Id.

⁴⁰ Id.

⁴¹ Id.

Annex C Summary of the Overpricing Estimates

RCAIDS contracts:

Round	Winning vendor	Contract date	Goods/services provided	Contract value (paid), US\$	Reference price year	Retro-adjustment for inflation (prices in KZT ⁴²)	Estimated cost of goods/services as per reference pricing, US\$	Estimated logistics cost from abroad to Almaty, US\$	Estimated logistics cost from Almaty to regions, US\$	Estimated procurement fee, US\$	Estimated comparable market value, US\$	Estimated overpricing, US\$	Estimated overpricing, %
A	B	C	D	E	F	G	H	I	J	K	L=H+I+J+K	M=E-L	N=M/E
2	Aliyar	18/03/2008	STI drugs	467,380	2013	0.0%	161,851		8,093		169,944	297,436	63.6%
7	Aliyar	15/04/2009	STI drugs	35,084	2013	0.0%	18,793		940		19,733	15,351	43.8%
7	Antago	27/01/2010	disinfection products	93,785	2013	0.0%	57,460		2,873		60,333	33,452	35.7%
7	Antago	27/01/2010	rubber gloves	77,775	2012	0.0%	40,306		972		41,278	36,497	46.9%
2	Antal 2030	26/02/2008	disinfection products	30,022	2013	0.0%	26,390		1,320		27,710	2,312	7.7%
2	Anteks	18/06/2007	IT equipment	19,026									
2	Anteks	8/02/2008	IT equipment	6,112									
7	Anteks	12/03/2008	IT equipment	178,908									
2	Anteks	21/04/2008	transportation of vehicle	5,138	2014	45.5%			1,995		1,995	3,143	61.2%
7	Anteks	30/01/2009	office equipment	14,224									
7	Anteks	16/02/2009	IT equipment	22,486									
7	Anteks	1/04/2009	IT equipment	151,695									
7	Anteks	15/04/2009	IT equipment	4,188									
7	Central Asia Promotion Plus	20/06/2011	information campaign	12,945									
7	Central Asia Promotion Plus	12/07/2011	production of video ads	19,496									
7	Classic Dent	11/02/2010	syringes "B. Braun" (Germany)	588,665	2013	0.0%	372,167		18,608		390,775	197,890	33.6%

⁴² KZT – Kazakhstan Tenge

Round	Winning vendor	Contract date	Goods/services provided	Contract value (paid), US\$	Reference price year	Retro-adjustment for inflation (prices in KZT ⁴²)	Estimated cost of goods/services as per reference pricing, US\$	Estimated logistics cost from abroad to Almaty, US\$	Estimated logistics cost from Almaty to regions, US\$	Estimated procurement fee, US\$	Estimated comparable market value, US\$	Estimated overpricing, US\$	Estimated overpricing, %
A	B	C	D	E	F	G	H	I	J	K	L=H+I+J+K	M=E-L	N=M/E
2	Continent Eurasia	15/09/2007	design and printing of IEM	1,370	2014	67.4%	3,082				3,082	<0	N/A
2	Continent Eurasia	14/12/2007	design and printing of IEM	1,407									
2	Continent Eurasia	28/04/2008	design and printing of IEM	40,205	2014	48.0%	32,026		417		32,443	7,762	19.3%
7	Continent Eurasia	18/07/2008	information campaign	17,678									
7	Dogma Plus	25/01/2010	condoms "Protect Plus" (China)	257,204	2012	0.0%	127,124				127,124	130,080	50.6%
7	Dogma Plus	25/01/2010	lubricant gel "Protect Plus" (China)	12,944	2007	0.0%	6,068				6,068	6,876	53.1%
2	Farmaktiv	18/03/2008	syringes "Becton Dickinson" (Spain)	766,194	2013	0.0%	787,150		39,358		826,508	<0	N/A
2	Farmaktiv	18/03/2008	needles "Becton Dickinson" (Spain)	61,838	2013	0.0%	245,258		12,263		257,521	<0	N/A
7	Farmaktiv	6/02/2009	laboratory supplies	1,442									
7	Farmaktiv	30/04/2009	containers for syringes	23,885	2013	0.0%	16,406		820		17,226	6,659	27.9%
7	Farmaktiv	5/05/2009	syringes "Becton Dickinson" (Spain)	523,437	2013	0.0%	342,553		17,128		359,681	163,756	31.3%
7	Fortis Pai	3/05/2011	condoms "Venus #144" (Malaysia)	404,807	2012	0.0%	407,198				407,198	<0	N/A
10	Fortis Pai	11/03/2012	condoms "Venus #144" (Malaysia)	457,553	2012	0.0%	457,429				457,429	124	0.0%
10	Fortis Pai	11/03/2012	lubricant gel "KaTriN" (Russia)	329,638	2007	0.0%	157,499				157,499	172,139	52.2%
10	Fortis Pai	7/05/2012	laboratory supplies	4,998									

Round	Winning vendor	Contract date	Goods/services provided	Contract value (paid), US\$	Reference price year	Retro-adjustment for inflation (prices in KZT ⁴²)	Estimated cost of goods/services as per reference pricing, US\$	Estimated logistics cost from abroad to Almaty, US\$	Estimated logistics cost from Almaty to regions, US\$	Estimated procurement fee, US\$	Estimated comparable market value, US\$	Estimated overpricing, US\$	Estimated overpricing, %
A	B	C	D	E	F	G	H	I	J	K	L=H+I+J+K	M=E-L	N=M/E
2	Grafika-U	22/05/2007	design and printing of IEM	364,445	2014	75.1%	110,996		8,456		119,453	244,993	67.2%
2	Grafika-U	17/03/2008	design and printing of IEM	377,638	2014	49.3%	82,179		7,327		89,506	288,133	76.3%
7	Grafika-U	4/02/2009	design and printing of IEM	274,170	2014	38.2%	84,540		6,954		91,493	182,677	66.6%
7	Grafika-U	26/06/2009	printing of IEM	14,107	2014	34.5%	11,081				11,081	3,026	21.5%
7	Grafika-U	22/01/2010	design and printing of IEM	286,493	2014	29.8%	92,794		8,401		101,195	185,298	64.7%
7	Grafika-U	20/12/2010	design and printing of IEM	13,312	2014	22.1%	6,281		561		6,842	6,470	48.6%
7	Grafika-U	20/12/2010	design and printing of IEM	6,026	2014	22.1%	5,921		incl. above		5,921	105	1.7%
2	High End Consulting	28/04/2008	refrigerators	13,632									
2	Mediko Markus	18/03/2008	condoms "Protect Plus" (China)	639,568	2012	0.0%	499,535				499,535	140,033	21.9%
2	Nurstom	25/05/2007	condoms "Protect Plus" (China)	850,497	2012	0.0%	767,360				767,360	83,137	9.8%
2	Nurstom	31/05/2007	lubricant gel	36,496	2007	0.0%	36,496				36,496	0	0.0%
7	Oxygen-Pro	2/06/2011	containers for syringes	1,587	2013	0.0%	1,120		56		1,176	411	25.9%
7	Oxygen-Pro	3/06/2011	containers for syringes	36,528	2013	0.0%	26,086		1,304		27,390	9,138	25.0%
7	Oxygen-Pro	3/06/2011	laboratory supplies	1,614	2012	0.0%	965		48		1,013	601	37.2%
7	Oxygen-Pro	12/06/2011	latex gloves	429	2012	0.0%	217		63		280	149	34.7%
7	Oxygen-Pro (Medtehnika)	3/05/2011	syringes "Becton Dickinson" (Spain)	485,338	2013	0.0%	310,422		15,521		325,943	159,395	32.8%
7	Pilot Communication	20/05/2011	design and printing of IEM	96,785	2014	16.5%	29,930		2,614		32,544	64,241	66.4%
7	Pilot Communication	3/11/2011	mass media campaign	82,748									

Round	Winning vendor	Contract date	Goods/services provided	Contract value (paid), US\$	Reference price year	Retro-adjustment for inflation (prices in KZT ⁴²)	Estimated cost of goods/services as per reference pricing, US\$	Estimated logistics cost from abroad to Almaty, US\$	Estimated logistics cost from Almaty to regions, US\$	Estimated procurement fee, US\$	Estimated comparable market value, US\$	Estimated overpricing, US\$	Estimated overpricing, %	
A	B	C	D	E	F	G	H	I	J	K	L=H+I+J+K	M=E-L	N=M/E	
10	Pilot Communication	15/02/2012	production of video ads	31,292										
10	Pilot Communication	20/07/2012	design and printing of IEM	179,071	2014	10.3%	43,796		3,900		47,696	131,375	73.4%	
2	Spektr Plus	22/02/2005	design and printing of IEM	570,961	2014	109.1%	92,369		7,851		100,220	470,742	82.4%	
2	Spektr Plus	23/09/2005	design and printing of IEM	233,916	2014	101.7%	20,550				20,550	213,366	91.2%	
2	Spektr Plus	27/04/2006	design and printing of IEM	878,504	2014	90.0%	168,263		13,179		181,442	697,063	79.3%	
7	Sun Trade Alma	16/02/2009	disinfection products	81,680	2013	0.0%	44,956		2,248		47,204	34,476	42.2%	
7	Sun Trade Alma	16/02/2009	rubber gloves	74,298	2012	0.0%	34,590		972		35,562	38,736	52.1%	
7	Sun Trade Alma	23/02/2009	condoms "Protect Plus" (China)	254,379	2012	0.0%	126,985				126,985	127,394	50.1%	
7	Sun Trade Alma	23/02/2009	lubricant gel "Protect Plus" (China)	48,447	2007	0.0%	22,940				22,940	25,507	52.6%	
Total, RCAIDS				10,565,493								Total, RCAIDS	4,179,941	X

NCTP contracts:

Round	Winning vendor	Contract date	Goods/services provided	Contract value (paid), US\$	Reference price year	Retro-adjustment for inflation (prices in KZT)	Estimated cost of goods/services as per reference pricing, US\$	Estimated logistics cost from abroad to Almaty, US\$	Estimated logistics cost from Almaty to regions, US\$	Estimated procurement fee, US\$	Estimated comparable market value, US\$	Estimated overpricing, US\$	Estimated overpricing, %
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A	B	C	D	E	F	G	H	I	J	K	L=H+I+ +J+K	M=E-L	N=M/E	
8	Agat	13/07/2010	project design for renovation works	178,450										
8	Agat	23/12/2010	project design for renovation works	37,445										
8	Alim Eurasia Service	28/10/2010	logistics services	58,701	2012	9.3%			23,630		23,630	35,071	59.7%	
8	Azha Farma	25/03/2010	bacterial analyzer "BD Bactec MGIT"	1,084,988	2010	0.0%	467,400	60,762	31,690	55,985	615,837	469,151	43.2%	
8	Azha Farma	25/03/2010	reagents/ consumables for TB diagnostics "BD Bactec MGIT"	566,913	2009-2010	0.0%	341,501	44,395	23,154	40,905	449,955	116,958	20.6%	
6	Azha Farma	25/03/2010	reagents/ consumables for TB diagnostics "BD Bactec MGIT"	64,919	2009-2010	0.0%	37,039	4,815	2,511	4,437	48,802	16,117	24.8%	
8	Classic Dent	21/06/2010	reagents/ consumables for TB diagnostics "BD Bactec MGIT"	257,024	2009-2010	0.0%	111,511	14,496	7,560	13,357	146,925	110,099	42.8%	
8	Classic Dent	21/06/2010	reagents/ consumables for TB diagnostics "BD Bactec MGIT"	166,270	2009-2010	0.0%	73,946	9,613	5,014	8,857	97,430	68,840	41.4%	
8	Global Construction Plus	30/12/2010	renovation works	1,617,605										
8	IE AAA	12/12/2011	social packages for TB patients	128,854	2014	13.6%	55,985		23,556	11,197	90,738	38,116	29.6%	
8	IE DDD	19/04/2012	social packages for TB patients	125,053	2014	11.7%	55,080		22,920	11,016	89,016	36,037	28.8%	
8	IE EEE	13/06/2012	social packages for TB patients	121,031	2014	10.7%	53,871		22,169	10,774	86,814	34,217	28.3%	
8	IE GGG	25/09/2012	social packages for TB patients	123,808	2014	9.4%	55,415		22,502	11,083	89,000	34,808	28.1%	
6	JM Auto	29/04/2009	respirators "3M 9320"	72,151	2012	0.0%	37,510	387	230		38,127	34,024	47.2%	
8	JM Auto	22/06/2010	respirators "3M 9320"	21,815	2012	0.0%	10,667	193	230		11,090	10,725	49.2%	
8	JM Auto	6/09/2011	respirators "3M 9320"	21,696	2012	0.0%	9,333	193	230		9,756	11,940	55.0%	
8	JM Auto	26/03/2012	respirators "3M 9320"	21,942	2012	0.0%	8,167	193	230		8,590	13,352	60.9%	
8	Sana Consulting	24/09/2010	social packages for TB patients	169,881	2014	25.1%	94,793		29,313	18,959	143,064	26,817	15.8%	
8	Zarin-D	23/12/2010	social packages for TB patients	1,061,793	2014	16.8%	586,905		161,623	117,381	865,909	195,884	18.4%	
Total, NCTP				5,900,339								Total, NCTP	1,252,156	X

Annex D Summary of the Principal Recipient Responses

Principal Recipient responses	The OIG comments
Section 01 – RCAIDS responses	
<p>In its first response, RCAIDS stated that it did not agree with all of the OIG findings for the period from 2010 to 2011 and the OIG conclusions on RCAIDS' non-compliance with the STC of the grant agreements, or that RCAIDS procurements were overpriced [see Section 4]. For instance, RCAIDS listed the actions that it had completed under the STC (e.g. adherence to the PSM plans and procedures approved by the Global Fund, and the national procurement law), the lack of adverse findings in RCAIDS during the annual grant audits and verifications by the Almaty City Prosecutor's Office and the national supreme audit body, as well as RCAIDS' unawareness of any non-compliance with the Article 21 of the STC (i.e. standards of conduct; avoidance of conflicts of interest and corruption; and disclosure of irregularities).</p>	<p>RCAIDS did not provide any reasoning or evidence to disprove the specific OIG findings. The OIG also considers that the lack of adverse findings by other bodies or verification exercises does not exclude the probability of concealed irregularities.</p>
<p>In its second response and as above, RCAIDS listed the actions that it had completed under the STC, and pointed out the lack of adverse findings by the Local Fund Agent and the annual grant audits, as well as RCAIDS' unawareness of any non-compliance with the Article 21 of the STC.</p> <p>Further, RCAIDS stated that because the OIG did not identify the suppliers involved in the bid rigging scheme between 2005 and 2010, RCAIDS could not investigate the substance of the OIG's findings. Also, RCAIDS' mission does not involve undertaking investigations. On these grounds, RCAIDS did not agree with the OIG findings for the period from 2005 to 2010.</p>	<p>In its findings communicated to RCAIDS, the OIG provided the relevant vendor company names. The OIG could have provided to RCAIDS the real names of the Ring Leaders and vendor representatives (who had submitted bids to RCAIDS), if required, however, RCAIDS did not request these details from the OIG during an extended response period of two months. Further, the former Director General of RCAIDS was at least familiar with the Ring Leaders <i>Alpha</i> and <i>Beta</i>. When interviewed by the OIG, he stated that, to his knowledge, <i>"Beta and Alpha were representatives of Azha Farma and had obvious connections with Classic Dent, and possibly with Grafika-U"</i>. Also, the ex-Director General of RCAIDS (in office between 2009 and 2010) stated that, at the beginning of his office, the former Director General (who was the Director of Almaty City AIDS Center at that time) introduced <i>Alpha</i> to the ex-Director General as a reliable business partner.</p>
<p>RCAIDS provided further general comments. It stated that it followed the provisions of the national procurement law, according to which RCAIDS could not impose on potential suppliers any eligibility criteria other than those indicated in the law. RCAIDS stated that the OIG findings based on phone interviews with unknown persons and the identical elements in vendor bids cannot be a basis for the rejection of potential suppliers. RCAIDS also added that vendor bids were similar due to bid templates being pre-</p>	<p>The OIG interviewed only a small number of vendors by telephone, exceptionally, when the vendor could not be met in person, and it was assured that the interviewed persons were the vendor representatives. The OIG's findings about identical elements in the bids did not relate to the fact that vendors used the same templates pre-defined by the Principal Recipient. The identical elements identified by</p>

Principal Recipient responses	The OIG comments
defined in the tender documentation.	the OIG related to identical text entries or formatting that were created by the vendors themselves within the bid templates. In the OIG's opinion, the identical elements in the vendor bids constitute significant evidence of vendor collusion, which was considered together with other evidence in the case.
RCAIDS stated that it undertook procurements only following the approval of a detailed grant budget and the PSM plan by the Global Fund, and signed the contracts with suppliers following the procurement review by the Local Fund Agent. The Local Fund Agent also reviewed procurement data entered by RCAIDS in the Global Fund's price-quality reporting (PQR) system.	In the past the Local Fund Agent undertook <i>ex-ante</i> procurement reviews only on exceptional basis and systematic reviews were introduced in 2012. Also, the lack of adverse findings by other bodies following such reviews or other verification exercises does not exclude the probability of concealed irregularities.
RCAIDS also stated that the national criminal code provisions, according to which anyone is considered innocent until his/her guilt has been proven, no one is obliged to prove his/her innocence, and a verdict cannot be based on supposition and must be confirmed with an adequate body of evidence. RCAIDS stated that in view of this it regards the OIG's interviews as a basis of findings of illegal activities as unacceptable. RCAIDS also stated that the OIG based its findings on the assumption that RCAIDS staff were aware of the irregularities, and the OIG used statements such as "with full or partial knowledge", "more probable than not" and others. Therefore, RCAIDS found the OIG's findings to be without basis, as the OIG did not have evidence that RCAIDS staff had such knowledge.	<p>The OIG does not undertake criminal investigations and does not indict individuals. The OIG's investigations aim to identify irregularities affecting Global Fund grants and non-compliance with the program grant agreements. The OIG's evidentiary standard is different from criminal investigations; the OIG's findings are established by the preponderance of evidence and are based on facts and related analysis, which may include drawing reasonable inferences based upon established facts (see Annex A for more details). Further, the OIG does not have investigative powers comparable to those of the national authorities, who would obtain evidence required for criminal prosecutions.</p> <p>Even if RCAIDS management and staff were not fully or partially aware of the irregularities, it would nevertheless indicate gross lack of oversight or negligence on their part awarding 38 contracts totaling US\$ 7.0 million (as well as 19 other contracts totaling US\$ 3.5 million detailed in Sections 02 and 03) that were affected by irregularities.</p>
RCAIDS also found it unacceptable that the OIG used an international intelligence firm to gather background information for the investigation. According to RCAIDS, this firm did not have jurisdiction to conduct investigations in Kazakhstan.	The OIG engages business intelligence firms on regular basis and the abovementioned firm collected publicly available information in Kazakhstan.
RCAIDS stated that the OIG highlighted the failure of the management and staff of RCAIDS to disclose non-compliance with procurement procedures; however, the OIG had not indicated a single instance of non-compliance with procurement procedures, and all of the OIG's findings related to alleged and unproven	The OIG disagrees with RCAIDS comment considering the volume of the procurement irregularities detailed in this report.

Principal Recipient responses	The OIG comments
<p>collusion between vendors based on phone interviews with unknown persons and the identical elements in vendor bids, which cannot be considered as non-compliance with procurement procedures.</p>	
<p>RCAIDS also found unjustified the OIG's statement that RCAIDS staff failed to report irregularities to the Global Fund. RCAIDS stated that their duties do not include such an obligation, which is only the duty of RCAIDS as a legal entity, in accordance with the program grant agreements.</p>	<p>The reporting of irregularities is the responsibility of every RCAIDS employee who works with the Global Fund, in accordance with the <i>Code of Conduct for Recipients of Global Fund Resources</i>. Neither RCAIDS as a legal entity, nor its staff, reported the irregularities detailed in this report when such irregularities took place or during the investigation, even when given opportunity to speak in confidence.</p>
<p>With regards to the OIG's finding that the RCAIDS Tender Committee members made a procurement decision when the focus group approbation reports from two entities for this procurement were fabricated, RCAIDS responded that the OIG had not provided evidence of fabrication and that the relevant entities can confirm that such approbations took place.</p>	<p>If the approbation reports were not fabricated, it would mean that these entities tested the syringes for criteria applicable to condoms, since one report for each entity followed the format to be used for condoms rather than for syringes.</p>
<p>With regards to the OIG's finding that the ex-Financial Manager of RCAIDS suggested altering procurement files, RCAIDS responded that it did not find the e-mail communication where the ex-Financial Manager made these suggestions, and added that the reliability of such evidence must be investigated by competent authorities.</p>	<p>The OIG may share the relevant e-mail communication with RCAIDS and has interviewed the ex-Financial Manager, as well as the ex-Director General of RCAIDS (in office between 2006 and 2009), about this matter.</p>
Section 01 – NCTP responses	
<p>The current Director of NCTP in his response stated that he was not aware of the Ring Leaders, vendor relationships, or the identical elements in their bids, since he had not studied them. It was not possible to find out about non-existence of the bidding vendors because the NCTP procurement guidelines did not include physical identification of vendors. The Tender Committee made its decisions based on the received documents, and the bids were opened in the presence of the bidding vendors. A different composition of the Committee was approved for each procurement. It was not uncommon that vendor prices were identical and that did not raise the suspicions of the Tender Committee.</p> <p>He added that none of the PIU staff in NCTP, the Tender Committee members, or representatives of the Ministry of Public Health or the CCM were trained in procurement procedures for the Global Fund grants, and procurement guidelines prior to 2013 were general in nature.</p> <p>He stated that NCTP's priority in applying procurement procedures was the implementation of programme activities, and that the budget approved by the Global Fund served as a reference point for</p>	<p>The OIG restates that, considering the size of the bid rigging scheme and the fact that it involved both Principal Recipients in Kazakhstan, it is of the opinion that continuation of the scheme in NCTP would not have been possible without the full or partial knowledge of the Director of NCTP. The OIG also obtained information from confidential sources to support this assertion.</p> <p>Regarding the presence of vendors during the bid opening, for all but one of the NCTP procurements analyzed in this report (in this and the other Sections), all the vendor bids were either collusive or fabricated. The presence of vendors during the bid opening becomes irrelevant if the procurement is not competitive. The limited advertisement of NCTP procurements analyzed in this report must also have contributed to nearly no</p>

Principal Recipient responses	The OIG comments
<p>procurements, for which savings were made under the main budget lines. Based on these reasons, it was difficult for NCTP to notice any fraudulent practices or non-existing vendors.</p> <p>He further stated that NCTP could not have known about the Ring of vendors taking part in RCAIDS procurements and found out about the investigation into RCAIDS by the national authorities only later from unofficial sources. The Tender Committee members could not have known at the time of the procurements that such vendors were under investigation. He mentioned the mitigating measures introduced in 2013: application of a new procurement manual; compliance with the Global Fund requirements; and termination of the ex-Procurement Specialist of NCTP following his violations of rules during 2013.</p>	<p>competitive bids being received.</p>
<p>The Director of NCTP provided comments regarding specific irregularities detailed in the OIG findings. He stated that, at the time of the procurement (see Table 1 in Section 01, contract awarded to Alim Eurasia Service), NCTP was not aware of Alim Eurasia Service's relationship with other vendors, as there were no indications of this in official sources and NCTP could not conduct an investigation. NCTP's main source regarding dishonest suppliers was the <i>Government's register of dishonest suppliers</i>, which did not contain references about the concerned vendors.</p> <p>He added that non-compliance by the ex-Procurement Specialist could be noticed, as the latter did not advertise the above procurement as required in the NCTP's manual (as identified by the OIG). The Director of NCTP stated that this procurement of in-country logistics services was not advertised in a newspaper due to the late arrival of drugs from abroad. To ensure distribution of the drugs and the continuous treatment of tuberculosis patients, NCTP decided to procure logistics services following a RFQ and publication on NCTP's website. He added that the Global Fund had advised NCTP at the time that swift and breakthrough actions were required in tuberculosis control and that the Global Fund is an organization that resolves urgent financial issues in tuberculosis control in countries with a high tuberculosis burden. He added that the selection process for Alim Eurasia Service is unknown to him, and the Tender Committee reviewed the bids from three vendors in accordance with the procedure. NCTP did not have powers to identify that the losing vendors did not exist and it was not aware of the Ring Leaders and the collusion.</p>	<p>The OIG notes the comments. However, there was no RFQ procedure in place for this procurement other than advertisement on NCTP website. The ex-Procurement Specialist obtained and submitted exactly three vendor bids to the Tender Committee, which all were collusive or fabricated. The preponderance of evidence showed that the procurement process was simulated and the ex-Procurement Specialist was aware that the losing vendor bids were not genuine.</p>
<p>Regarding the contracts awarded to Azha Farma and Classic Dent (see Table 1 in Section 01), the Director of NCTP stated that Farmaktiv was the earlier exclusive distributor of Becton Dickinson products for tuberculosis diagnostics in Kazakhstan, and Farmaktiv's transfer of distribution rights to Azha Farma and Classic Dent (with an increase in product prices) and the collusion between vendors were out of NCTP's control, as there was no other option for NCTP at the time to procure these essential products. The</p>	<p>The OIG restates that the ex-Procurement Specialist stored in his e-mail contacts three phone numbers and one e-mail address of <i>Beta</i>, noting the latter as the representative of Azha Farma, and six phone numbers of <i>Alpha</i>, which indicates his contacts with these Ring Leaders. The OIG understands that NCTP may have been required to procure the above</p>

Principal Recipient responses	The OIG comments
<p>law contains provisions on direct contracts with suppliers where the products are exclusive and unique. He added that NCTP was guided solely by the programme goals and found out only later from the press that Azha Farma was under investigation by the national authorities, this was not known at the time of the procurement. He requested not to regard the overpricing as NCTP's fault in this case, where exclusive distribution rights were transferred from one supplier to others. He stated that, following the receipt of the OIG findings, NCTP was unable to contact the ex-Procurement Specialist to explain <i>Alpha's</i> and <i>Beta's</i> contact details saved in the ex-Procurement Specialist's e-mail contacts, and that the latter had not mentioned anything during his office time about these contacts and NCTP did not know about any potential meetings or negotiations of the ex-Procurement Specialist with these contacts. The Director of NCTP added that in 2013 NCTP achieved savings in procurements of the above products thanks to the assistance of the Global Fund and negotiations with the new distributor.</p>	<p>products from their exclusive distributors but is of the opinion that the ex-Procurement Specialist's contacts with the Ring Leaders were known by the management of NCTP, considering the size of the contracts awarded to Azha Farma and Classic Dent.</p>
<p>Regarding the contracts awarded to Sana Consulting and Zarin-D (see Table 1 in Section 01), the Director of NCTP restated that these procurements were advertised in two local daily newspapers and there was no requirement at the time to advertise them in major newspapers (as has been required since 2012). He stated that the Tender Committee could not perform a detailed analysis of vendor bids to identify the identical elements in them, as there was no such requirement in the procurement procedures. The Committee reviewed if the bids complied with the tender requirements and could not have imagined they came from a single source. He stated that NCTP could not have known the relationship between the involved vendors and <i>Delta</i>, about what NCTP found out from the OIG findings, and added that the discrepancies in Zarin-D' bids for the two procurements were probably misprints. Also, it was not the Tender Committee's duty to identify differences in the handwritings and signatures of the losing vendors that were found by the OIG.</p>	<p>The OIG restates that these procurements were advertised in two low circulation newspapers (one of them not intended for advertisements), following which only three collusive bids from the vendors in the Ring were received for each procurement. The OIG finds it more probable than not that the ex-Procurement Specialist and the management of NCTP must have been aware of the collusion, considering the size of the contracts awarded to Sana Consulting and Zarin-D. Also, the qualification details in Zarin-D' bid for the second procurement (December 2010) significantly differed from those for the first procurement (September 2010). This false data and the differences in handwriting and signatures of the losing vendors from their original handwriting were not scrutinized by the ex-Procurement Specialist (or the Tender Committee).</p>
<p>Regarding the fact that an increased number of vendors as well as all Ring Leaders were from or had worked and lived in Zhambyl province (where the Director of NCTP was from), he stated that this was a coincidence and he did not know any of the Ring Leaders or the vendors in question. He stated that some of the procurements in question were advertised prior to April 2010, when he took office, and that many of the vendors in question also took part in NCTP procurements funded by the Global Fund prior to April 2010. He added that a number of these vendors repeatedly participated in RCAIDS procurements between 2007 and 2010, which he could not have influenced.</p>	<p>The OIG notes the comments but also the fact that out of the nine contracts in question only three contracts awarded to Azha Farma (related to <i>Alpha</i> and <i>Beta</i>) were awarded prior to April 2010, and none of the vendors located in Zhambyl province and cited in the OIG findings bid prior to April 2010.</p>
<p>Section 02 – RCAIDS responses</p>	

Principal Recipient responses	The OIG comments
	RCAIDS did not provide a specific response on the findings in this Section.
Section 03 – RCAIDS responses	
In addition to its general response detailed above, RCAIDS stated that it did not agree with the OIG findings for the period from 2011 to 2012.	
Regarding the contracts awarded to Oxygen-Pro (see Table 3 in Section 03), RCAIDS stated that the Procurement Specialist of RCAIDS verifies that the bidders are not listed in the <i>Government’s register of dishonest suppliers</i> . Farmaktiv’s name was not found in it during 2011. Furthermore, an authorization letter to Oxygen-Pro from an unaffiliated company (Farmaktiv) cannot be a reason to reject the vendors’ bids.	The OIG considers that a vendor and its distributor both bidding with the same products in the same tender does not demonstrate competition. Especially, if the bids in the names of both vendors come from one source.
Regarding the e-mail communications from Oxygen-Pro’s representative (who was at the same time a Farmaktiv’s representative), RCAIDS stated that only original vendor bids are accepted by RCAIDS. Electronic versions or copies of bids are not considered. The Procurement Specialist’s e-mail address is available on RCAIDS website. Therefore, communications sent to this address cannot be regarded as evidence of collusion.	The OIG did not find evidence of any collusion involving the current Procurement Specialist. However, the fact that she received bids in the names of two vendors from the same source (and for the same products) was ultimately known to her, and yet she took no corrective action.
RCAIDS stated that, upon inspection, it did not find identical elements in vendor bids for procurements in which Oxygen-Pro and Central Asia Promotion Plus were selected (see Table 3 in Section 03). The OIG had not provided information about the method used to detect identical elements or any reports from experts. The Global Fund’s requirements regarding expert examination of documents (e.g. vendor bids) are not stipulated in RCAIDS employment contracts, and it is illegal for the employer to require staff to perform work not stipulated in employment contract. Therefore, RCAIDS considers that the above procurements were carried out in accordance with the national procurement law, which does not permit rejection of vendor bids on other grounds than those specified in the law. RCAIDS added that prior to 2012, the Global Fund did not provide specific instructions on procurement procedures. Due to this, RCAIDS followed the national procurement law.	The OIG provided the definition of the identical elements in its findings to RCAIDS (and in this report, see Section 01). Identical elements in vendor bids often constitute significant evidence of vendor collusion, which were considered together with other evidence in the case. While the complexity of red flags in vendor bids and overall procurement process may vary in each case, the OIG considers that Principal Recipient staff who are directly in charge of procurements are required to demonstrate due diligence to identify red flags whenever possible. The principles of the national procurement law in Kazakhstan include fair competition, transparency and value for money. Therefore, the OIG finds that in circumstances where fair competition is uncertain, the procurement process should be restarted or other procurement modalities be considered.
Regarding the contract awarded to Oxygen-Pro on 12 June 2011 (see Table 3 in Section 03), RCAIDS indicated that the OIG in its findings to RCAIDS compared the price in a contract “for rubber gloves” to an independent price of latex gloves.	The OIG rectified its error in Table 3. RCAIDS actually procured latex gloves under this contract; thus, the price comparison was correct.
RCAIDS also stated that, in accordance with the national law, every citizen of Kazakhstan has the right to personal and family privacy	The OIG reiterates that it does not undertake criminal investigations and the OIG’s

Principal Recipient responses	The OIG comments
<p>and privacy of phone communications and correspondence, which are protected by law. Such communications and correspondence can be investigated and disclosed in open court only with the consent of the persons between whom they passed. Furthermore, evidence is deemed admissible if it was obtained in accordance with the procedure laid down in the law, and is deemed reliable if it is ascertained through investigation by competent national authorities. Therefore, RCAIDS finds that the OIG interviews with vendor representatives are inadmissible as evidence, as they were not conducted in compliance with the national law, and must be excluded from the body of evidence.</p>	<p>evidentiary standard is different from criminal investigations (see Annex A for more details). During its investigations, the OIG contacts vendors on voluntary basis. In accordance with the Global Fund's <i>Code of Conduct for Suppliers</i>, Article 17, "[bidders and suppliers] are expected to cooperate with the Global Fund and comply with any reasonable request ... to allow access to relevant staff and to inspect any relevant accounts and records and other documents relating to bidding for and performing Global Fund financed contracts". The OIG does not disclose personal details of vendors in its reports.</p>
<p>Regarding the OIG findings on fabricated focus group approbation reports, RCAIDS stated that the price criterion was not excluded and is one of the important criteria in bid evaluation, since RCAIDS cannot procure products above the price indicated in the grant budget. [RCAIDS added that the changes made to the invitations to bid could not have affected the tender outcome significantly. Further, the preferences of the end users are an essential factor in product selection.</p>	<p>The OIG notes however that the price criterion was excluded in this procurement and understands that RCAIDS rather wishes to state that, although the price criterion was technically excluded, the product price limit in the grant budget had to be considered by RCAIDS.</p> <p>The OIG notes that the tender outcome possibly would not have changed, since only one compliant bid was ultimately available in each procurement. However, the OIG noted limited competition in both procurements and found that procurement decisions followed fabricated approbation reports, and there was an intention to exclude the price criterion in bid evaluation to secure that the products and vendors were selected based on the preferences in the fabricated reports.</p>
<p>RCAIDS added that the OIG had not identified well founded evidence, other than identical elements, that the approbation reports were fabricated. Both NGOs who submitted the reports can confirm that focus group approbations took place. RCAIDS added that approbation reports may be similar because these NGOs previously had not participated in approbations and requested a template from RCAIDS. Further, the OIG had not taken into account the approbation reports from another regional AIDS center, which varied significantly from the approbation reports of the two NGOs.</p>	<p>The OIG restates that identical elements in documents from allegedly independent parties often constitute significant evidence of collusion. In particular, when they include identical grammar mistakes and identical details of approbation results as in the case of the two NGOs. The OIG finds that it is highly improbable for two independent parties to score exactly the same approbation results if such approbations actually took place. Further, the OIG considered the identical elements together with other evidence, which was an intentional exclusion of the price criterion in bid evaluation. The OIG noted that approbation reports from the third entity were different but finds that reports of the two</p>

Principal Recipient responses	The OIG comments
	NGOs were fabricated.
<p>RCAIDS added that focus group approbations in procurements of certain products are required according to the PSM plans, which are part of the grant conditions approved by the Global Fund. RCAIDS adhered to the PSM plans by carrying out the necessary focus group approbations. In view of the above, RCAIDS considered the OIG's findings on procurements based on fabricated approbation reports to be unfounded.</p>	<p>The OIG notes the comments and finds that policies regarding focus group approbations in procurements financed by the Global Fund need alignment with good procurement practices of other donors.</p>
Section 04 – NCTP responses	
<p>Regarding the OIG findings on procurements from JM Auto, the Director of NCTP stated that all of the outlined facts relate to the ex-Procurement Specialist of NCTP, whom NCTP was no longer able to contact. The Director of NCTP stated that neither him nor the Tender Committee or the PIU Manager knew about the ex-Procurement Specialist's and JM Auto's representative's communications and, after this came to light, the ex-Procurement Specialist's employment was terminated.</p> <p>The Director of NCTP added that in selection of respirators, the Tender Committee was guided by conditions for their effective use (tightness of fit) that were created by the manufacturer 3M for "9320" respirators. At the time, the number of suppliers of this product on the national market was very limited, and there were no clear technical recommendations from relevant international organizations and experts.</p>	<p>The OIG notes the comments of the Director of NCTP.</p>
Section 05 – NCTP responses	
<p>Regarding the OIG findings on procurements from Agat, the Director of NCTP stated that the tender procedure (for the second procurement for US\$ 37,445) was conducted twice, which demonstrated that there was no prior collusion with vendors and no restrictions of competition. The most important element of the renovation works in NCTP was the engineering of the ventilation system for infection control, which was radically different from industrial and domestic ventilation systems. Even in Almaty, it was difficult to find an experienced engineer for these services. Such services are licensed, and the number of potential service providers was small.</p>	<p>The OIG understands that the competition may be limited in procurements of such services. Necessary exceptions to procurement procedures could have been made (in consultation with the Global Fund, where required). However, limitations to competition should not justify any irregularities that the OIG observed in this procurement, including limited advertisement of the tender (for the first and the second time) and collusion between vendors that also included fabrication of at least one vendor's bid.</p>
<p>Regarding the OIG findings on procurements of social packages, the Director of the NCTP stated that any vendor could have participated in these procurements since this activity was not licensed. Individual entrepreneurs often participate for this reason, as they also are subject to a simplified taxation and can compete with other businesses in terms of pricing.</p>	<p>These comments do not provide an explanation for the OIG's findings on the procurements of social packages.</p>
<p>The Director of the NCTP also stated that neither the program grant agreement nor the monitoring guidelines or recommendations from</p>	<p>The complexity of red flags in procurement process may vary in each case. However, the</p>

Principal Recipient responses	The OIG comments
<p>the Global Fund or the Local Fund Agent clearly stated how the prices bid in tenders should be compared with market prices. No government authority could have provided such advice. Vendors' prices could have been affected by the fact that they had to be provided for each lot, as according to the national procurement law.</p> <p>Further, the Director of NCTP remarked that the duties of the ex-Procurement Specialist of NCTP and the Tender Committee were to receive all bids from the potential suppliers, respond to any queries and examine all bids to ensure they complied with the tender requirements. Neither the program grant agreement nor the national law assigned to them any other duties or powers to undertake inquiries or other investigation-related activities regarding the collusion of suppliers. It is difficult to explain why the same vendors appeared in several procurements, it could be related to their source of information. Further, any citizen has the right to undertake individual entrepreneurial activity, and the small and medium business is currently widely supported in country at all levels. Similarities in bids could be due to the fact that many individual entrepreneurs use the services of lawyers or accountants to prepare bids. Further, in accordance with the law, vendors themselves bear responsibility concerning the accuracy and authenticity of information given in their bids. Accordingly, the Tender Committee reviewed the bids that had been submitted.</p>	<p>OIG considers that Principal Recipient staff who are directly in charge of procurements are required to demonstrate due diligence that red flags are identified whenever possible. In circumstances where fair competition is uncertain, the procurement process should be restarted or other procurement modalities be considered (in consultation with the Global Fund, where required).</p>
<p>The Director of NCTP restated that he did not know any of the bidding vendors prior or during the tenders and had no links with them. His main objectives were the management of the national tuberculosis programme, implementation of the Global Fund grant, delivery of programme activities and achievement of performance indicators. Procurement procedures were the responsibility of the ex-Procurement Specialist and the Tender Committee.</p>	<p>The OIG restates its finding that by all reasonable inferences the Director of NCTP was fully or partially aware of at least a number of the procurement irregularities identified above.</p>
<p>RCAIDS responses on the OIG's estimates of overpricing</p>	
<p>RCAIDS stated that it did not agree with the OIG findings that RCAIDS procurements reviewed in this report were compromised by collusive and fraudulent practices leading to a price increase of US\$ 4,179,941, as the OIG had not provided the following information:</p> <ul style="list-style-type: none"> • between what goods was the price assessment carried out: identical, uniform, or goods of the same class or type; • whether the physical features of the goods were assessed; • whether the quality of the goods was assessed; • whether the market reputation of the goods was assessed; • whether the country of origin of the goods was assessed; • whether the manufacturer of the goods was assessed; • whether the delivery time of the goods was compared to the delivery time of the goods purchased as their delivery time should not exceed 90 days; and • whether the purchase conditions of the goods were assessed. <p>In the absence of these assessments, it is not possible to determine the final price of the goods or to compare it with the prices of the</p>	<p>The OIG provided to RCAIDS the OIG's overall methodology for overpricing estimates and summary calculations. Detailed methodology and calculations are available with the OIG upon request.</p> <p>The aim of price assessments is to identify the best possible and reasonable price comparisons, while no assessment by an investigation office can reconstruct the reality when such goods or services were procured, and where such procurements were compromised by irregularities.</p> <p>According to Article 27 of the STC of the program grant agreements with the Principal Recipients, the Global Fund may require the</p>

Principal Recipient responses	The OIG comments
<p>goods purchased by the Principal Recipient.</p> <p>Prices in the international market do not reflect the prices of the goods registered in Kazakhstan due to the requirements of national law, Global Fund’s requirements for packaging and other factors contributing to the final price of the goods.</p> <p>Furthermore, in accordance with the “Agreement on determination of the customs value of goods which are moved across customs border within the Customs Union”⁴³ (Moscow, 25 January 2008), “identical” are goods which are the same in all aspects as the comparable goods.</p> <p>The comparable goods must be manufactured in the same country as the goods to be compared; otherwise they cannot be regarded as identical.</p> <p>Consequently, the OIG’s conclusion based on an unknown price comparison method that prices of the goods procured by RCAIDS were increased is incorrect. RCAIDS restated its earlier comment that the OIG compared the price in a contract “for rubber gloves” to an independent price of latex gloves.</p> <p>RCAIDS stated that the OIG compared the prices of non-identical goods, its price assessment was not objective and the OIG findings cannot be a basis to accuse the Principal Recipient of increasing the prices by US\$ 4,179,941.</p>	<p>Principal Recipient to refund grant amounts where there was a breach of any provision of this agreement. This applies to the total value of grant expenditures identified as non-compliant (e.g. value of procurements compromised by collusive and fraudulent practices). Nevertheless, to inform the Global Fund management on the actual loss to the Global Fund, the OIG suggests a conservative approach and strives to obtain a fair estimate of the overpricing of such procurements.</p> <p>As detailed in Annex B, for price comparison purposes, the OIG strived to obtain the most appropriate comparable market prices for products with technical specifications either identical to or a close as possible to the specifications of the products procured. In a number of cases, the OIG undertook alternative assessments and selected the results that were fairer or more conservative (resulting in smaller overpricing estimates).</p> <p>When following the rationale in the RCAIDS comments above, donor organizations would have no means of protecting their funds against procurement irregularities and the programme beneficiaries from reduction of potential services to them due to the loss of funds.</p> <p>With respect to the RCAIDS’ comment on the OIG’s comparison of the price of “rubber gloves” to the price of latex gloves, as already stated above, the OIG rectified its error where RCAIDS actually procured latex gloves (see Table 3). Thus, it was a wording error but the OIG’s price comparison was correct.</p>
<p>RCAIDS further added that:</p> <ul style="list-style-type: none"> • it undertook procurements within the limits of the grant budgets approved by the Global Fund, procurement prices did not exceed the prices indicated in grant budgets, goods and services conformed to PSM plans, and all goods reached the end users; • suppliers of medical products were manufacturers or their official representatives; • the OIG failed to provide a single piece of evidence of violations of the national law of the Republic of Kazakhstan. <p>In view of the foregoing, RCAIDS considered that the Global Fund had not suffered any financial loss since RCAIDS procurements did</p>	<p>The OIG reaffirms the significance and volume of procurement irregularities and overpricing identified in this report.</p> <p>The OIG highlights that in earlier grant budgets procurement prices were indicated for a limited number of products and were not monitored closely by the Secretariat. Many of the vendors analyzed in this report were neither manufacturers nor their official</p>

⁴³ Earlier Customs Union of Belarus, Kazakhstan and Russia, currently reformed as the Eurasian Economic Community

Principal Recipient responses	The OIG comments
<p>not overrun the allocated funds. RCAIDS added that between 2011 and 2013 RCAIDS achieved considerable savings by reducing administrative expenses and procurement prices by more than US\$ 1,230,000 (10% of the budget for grant KAZ-H-RAC to RCAIDS).</p>	<p>representatives.</p> <p>The purpose of the OIG investigations is not to identify violations of the national law, but rather assess the extent of non-compliance with the Global Fund program grant agreements, which are governed by the UNIDROIT principles.</p>

Annex E Exhibits

Figure 1 - Relationship of the Ring Leaders and vendors involved in the systematic bid rigging scheme (RCAIDS and NCTP procurements)

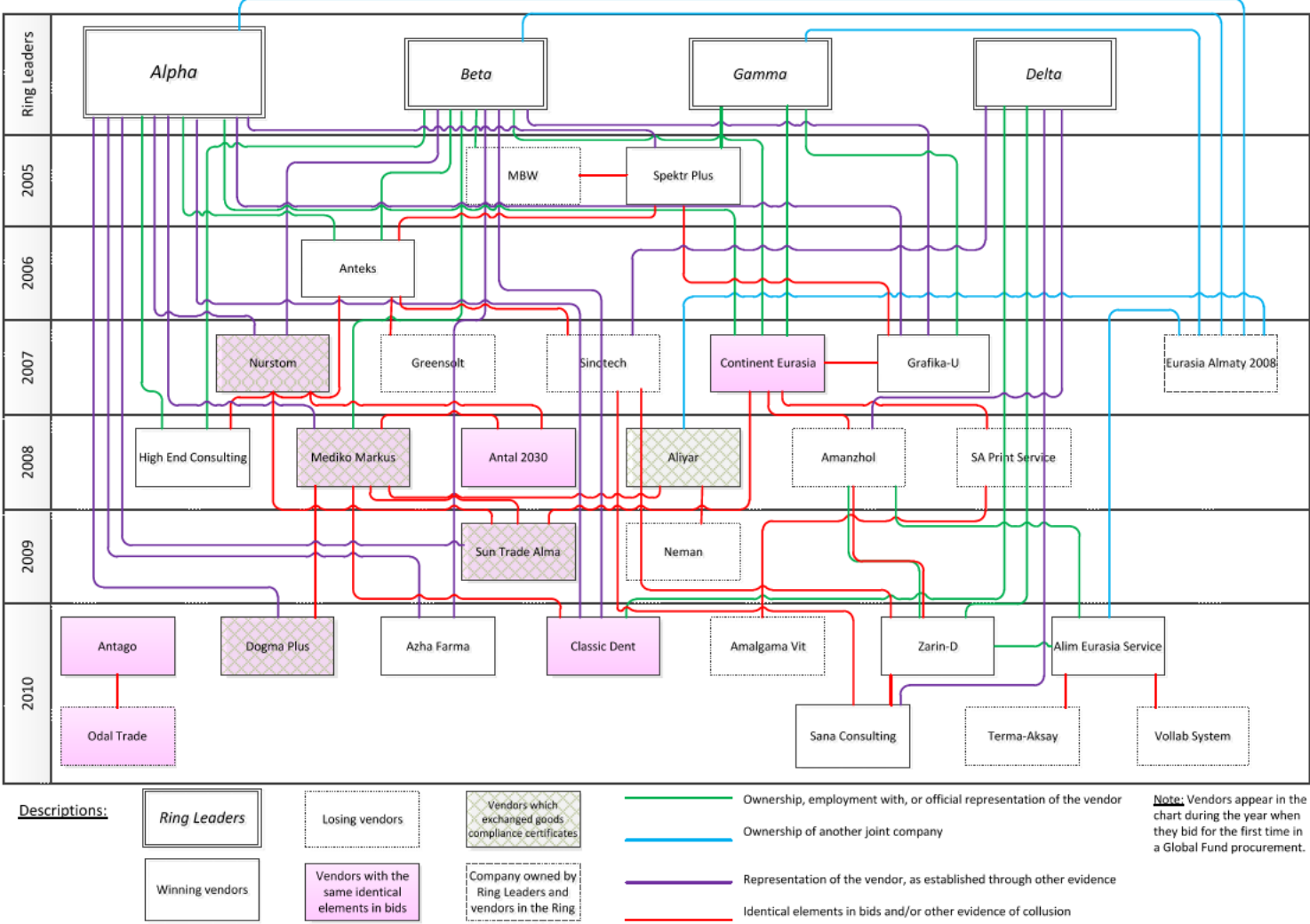


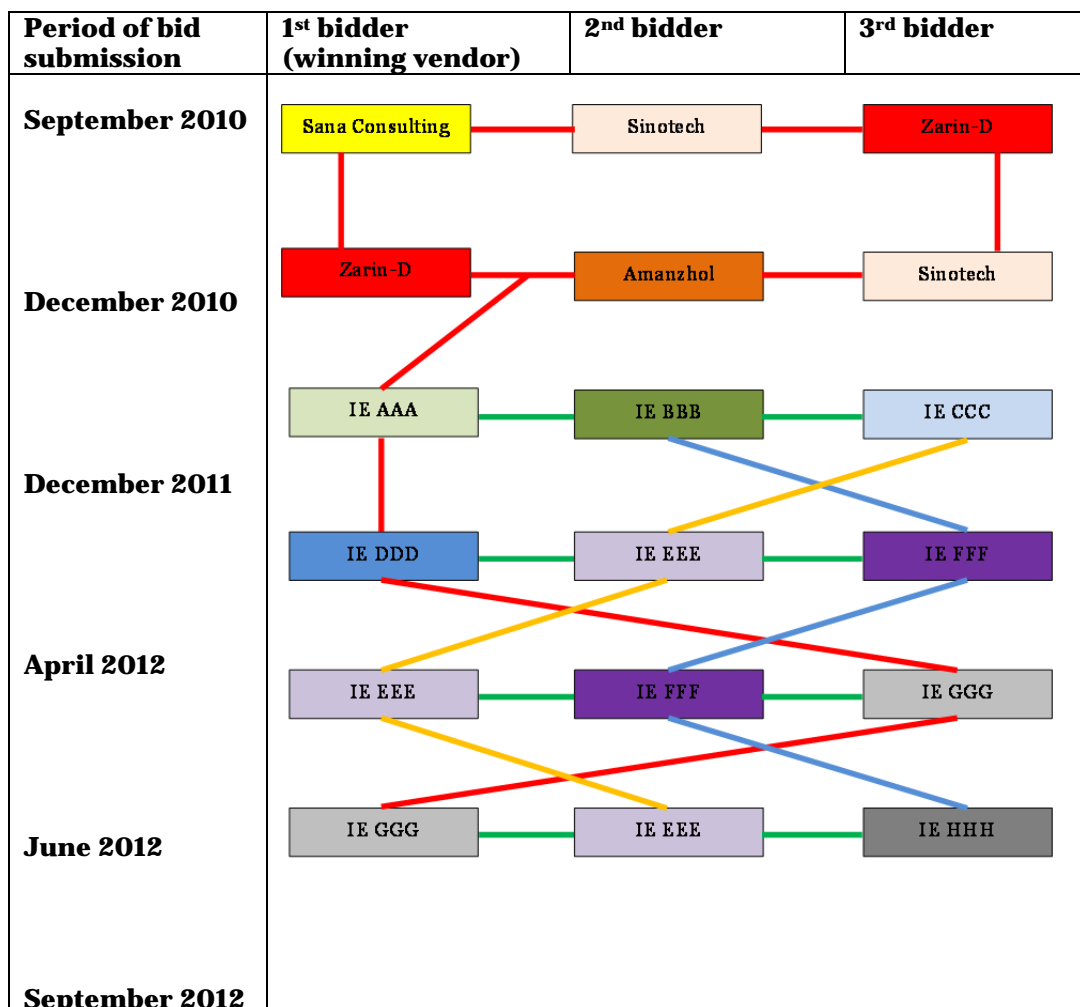
Figure 2 - Procurement decisions made by RCAIDS management and staff members, who regularly reviewed bids containing various irregularities

Tender Committee meeting date	Tender Committee members (procurement decisions made by)	Bids reviewed
18/05/2007	<ul style="list-style-type: none"> - Ex-Director General, in office between 2006 and 2009 (chair) - Ex-Financial Manager, in office between 2007 and 2013 - Ex-Procurement Specialist, in office between 2007 and 2008 (secretary) - Other RCAIDS staff 	<ul style="list-style-type: none"> - Grafika-U (contract awarded on 22/05/2007) - Spektr Plus
18/05/2007	<ul style="list-style-type: none"> - Ex-Director General, in office between 2006 and 2009 (chair) - Ex-Financial Manager, in office between 2007 and 2013 - Ex-Procurement Specialist, in office between 2007 and 2008 (secretary) - Other RCAIDS staff 	<ul style="list-style-type: none"> - Nurstom (contract awarded on 25/05/2007) - Farmaktiv (bid likely not part of the bid rigging scheme but excluded by the Tender Committee) - Medkom-Kazakhstan (bid likely not part of the bid rigging scheme but excluded by the Tender Committee)
27/05/2007	<ul style="list-style-type: none"> - Ex-Director General, in office between 2006 and 2009 (chair) - Ex-Financial Manager, in office between 2007 and 2013 - Ex-Procurement Specialist, in office between 2007 and 2008 (secretary) - Other RCAIDS staff 	<ul style="list-style-type: none"> - Nurstom (contract awarded on 31/05/2007) - Farmaktiv (bid likely not part of the bid rigging scheme but excluded by the Tender Committee) - Medkom-Kazakhstan (bid likely not part of the bid rigging scheme but excluded by the Tender Committee)
21/02/2008	<ul style="list-style-type: none"> - Ex-Director General, in office between 2006 and 2009 (chair) - Ex-Financial Manager, in office between 2007 and 2013 - Ex-Procurement Specialist, in office between 2007 and 2008 (secretary) - Other RCAIDS staff 	<ul style="list-style-type: none"> - Antal 2030 (contract awarded on 26/02/2008) - Mediko Markus - Nurstom
17/03/2008	<ul style="list-style-type: none"> - Ex-Director General, in office between 2006 and 2009 (chair) - Ex-Financial Manager, in office between 2007 and 2013 - Ex-Procurement Specialist, in office between 2007 and 2008 (secretary) - Other RCAIDS staff 	<ul style="list-style-type: none"> - Mediko Markus (contract awarded on 18/03/2008) - Aliyar
18/03/2008	<ul style="list-style-type: none"> - Ex-Director General, in office between 2006 and 2009 (chair) - Ex-Financial Manager, in office between 2007 and 2013 - Ex-Procurement Specialist, in office between 2007 and 2008 (secretary) - Other RCAIDS staff 	<ul style="list-style-type: none"> - Aliyar (contract awarded on 18/03/2008) - Mediko Markus
26/01/2009	<ul style="list-style-type: none"> - Ex-Director General, in office between 2006 and 2009 - Ex-Procurement Specialist, in office during 2009 (procurement decision signed only by her) 	<ul style="list-style-type: none"> - Anteks (winner contract awarded on 30/01/2009) - High End Consulting
02/02/2009	<ul style="list-style-type: none"> - Ex-Director General, in office between 2006 and 2009 - Ex-Procurement Specialist, in office during 2009 (procurement decision signed only by her) <p>For this procurement, bids from Grafika-U and Spektr Plus were present in RCAIDS files. However, the ex-Procurement Specialist stated in her procurement decision (dated as of 02/02/2009) that bids from Grafika-U and Continent Eurasia were received.</p>	<ul style="list-style-type: none"> - Grafika-U (contract awarded on 04/02/2009) - Spektr Plus

Tender Committee meeting date	Tender Committee members (procurement decisions made by)	Bids reviewed
	Continent Eurasia's bid she was referring to, related to another procurement (see below the procurement decision made on 24/06/2009). This indicates that either the procurement decision by the Ex-Procurement Specialist was backdated and erroneous, and/or the various bids and procurement decisions were considered a formality.	
13/02/2009	- Ex-Director General, in office between 2006 and 2009 - Ex-Procurement Specialist, in office during 2009 (procurement decision signed only by her)	- Sun Trade Alma (contract awarded on 16/02/2009) - Continent Eurasia
13/02/2009	- Ex-Director General, in office between 2006 and 2009 - Ex-Procurement Specialist, in office during 2009 (procurement decision signed only by her)	- Sun Trade Alma (contract awarded on 16/02/2009) - Mediko Markus - Nurstom
21/02/2009	- Ex-Director General, in office between 2006 and 2009 - Ex-Procurement Specialist, in office during 2009 (procurement decision signed only by her)	- Sun Trade Alma (contract awarded on 23/02/2009) - Mediko Markus - Nurstom
21/02/2009	- Ex-Director General, in office between 2006 and 2009 - Ex-Procurement Specialist, in office during 2009 (procurement decision signed only by her)	- Sun Trade Alma (contract awarded on 23/02/2009) - Nurstom
27/03/2009	- Ex-Director General, in office between 2006 and 2009 - Ex-Procurement Specialist, in office during 2009 (procurement decision signed only by her)	- Anteks (contract awarded on 01/04/2009) - High End Consulting
13/04/2009	- Ex-Director General, in office between 2006 and 2009 - Ex-Procurement Specialist, in office during 2009 (procurement decision signed only by her)	- Aliyar (contract awarded on 15/04/2009) - Neman
24/06/2009	- Ex-Director General, in office between 2006 and 2009 - Ex-Procurement Specialist, in office during 2009 (procurement decision signed only by her)	- Grafika-U (contract awarded on 26/06/2009) - Continent Eurasia
18/01/2010	- Ex-Director General, in office between 2009 and 2010 (chair) - Ex-PIU Manager, in office between 2009 and 2014 (deputy chair) - Ex-Financial Manager, in office between 2007 and 2013 - Ex-Procurement Specialist, in office between 2009 and 2010 (secretary) - Other RCAIDS staff	- Grafika-U (contract awarded on 22/01/2010) - Spektr Plus
22/01/2010	- Ex-Director General, in office between 2009 and 2010 (chair) - Ex-PIU Manager, in office between 2009 and 2014 (deputy chair) - Ex-Financial Manager, in office between 2007 and 2013 - Ex-Procurement Specialist, in office between 2009 and 2010 (secretary) - Other RCAIDS staff	- Dogma Plus (2 contracts awarded on 25/01/2010) - Mediko Markus
26/01/2010	- Ex-Director General, in office between 2009 and 2010 (chair) - Ex-PIU Manager, in office between 2009 and 2014 (deputy chair) - Ex-Financial Manager, in office between 2007 and 2013 - Ex-Procurement Specialist, in office between 2009 and 2010 (secretary) - Other RCAIDS staff	- Antago (2 contracts awarded on 27/01/2010) - Odal Trade
04/02/2010	- Ex-Director General, in office between 2009 and 2010	- Classic Dent (contract awarded on

Tender Committee meeting date	Tender Committee members (procurement decisions made by)	Bids reviewed
	(chair) - Ex-PIU Manager, in office between 2009 and 2014 (deputy chair) - Ex-Financial Manager, in office between 2007 and 2013 - Ex-Procurement Specialist, in office between 2009 and 2010 (secretary) - Other RCAIDS staff	11/02/2010) - Mediko Markus

Figure 3 - Interrelationship of bids for NCTP procurements of social packages for tuberculosis patients



The OIG's comments:

- Relationship coloured in red: Closely identical elements (i.e. all bids contained significant portions of identical text that did not originate from NCTP tender documentation but from one source for preparing all bids) exist in preparation of all bids submitted in September and December 2010 by Amanzhol, Sana Consulting, Sinotech and Zarin-D (collusion of these bidders and their relationship to the Ring Leaders was established in Section 3.1). The same identical elements (wording & formatting), as for the above ring of four vendors, appear in bids of IE AAA, IE DDD and IE GGG submitted in December 2011 and April, June and September 2012.
- Relationship coloured in blue: Closely identical elements (wording & formatting) appear in bids of IE BBB, IE FFF and IE HHH submitted in December 2011 and April, June and September 2012. (These were identical between these bidders but slightly differ from the above ring [where relationship is coloured in red]. The wording and formatting in these bids most probably was slightly changed by the bid preparer(s) so that the bids for the same tender do not appear closely identical).
- Relationship coloured in orange: Closely identical elements (wording & formatting) appear in bids of IE CCC and IE EEE submitted in December 2011 and April, June and September 2012. (These were identical between these bidders but slightly differ from the above ring [where relationship is coloured in red]. The wording and formatting in these bids most probably was slightly changed by the bid preparer(s) so that the bids for the same tender do not appear closely identical).
- Relationship coloured in green: Notwithstanding that the wording and formatting of the IEs' bids submitted in December 2011 and April, June and September 2012 most probably was slightly changed by the bid preparer(s) so that the bids for the same tender do not appear closely identical, various identical elements (wording) still exist between all bids for each of the tenders.