



THE INTEGRITY PACT

Harnessing collective action for good governance
and business integrity in public procurement

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The Integrity Pact

Harnessing collective action for good governance and business integrity in public procurement

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LIST OF ACRONYMS

EU – European Union

CoSP – Conference of States Parties

CoST – Infrastructure Transparency Initiative

CSO – Civil society organisation

GDP – Gross Domestic Product

GPA – Government Procurement Agreement

GRAS – Governance Risk Assessment System

GRI – Global Reporting Initiative

HLRM – High-level Reporting Mechanism

IMF – International Monetary Fund

IP – Integrity Pacts

MEL – Monitoring, Evaluation and Learning

MoC – Memorandum of Cooperation

NGO – non-governmental organisation

OCP – Open Contracting Partnership

OCDS – Open Contracting Data Standard

OC4IDS – Open Contracting Data Standard for Infrastructure

OECD – Organisation for Economic Development and Cooperation

SDGs – Sustainable Development Goals

TI – Transparency International

UN – United Nations

UNCAC – United Nations Convention Against Corruption

UNCITRAL – United Nations Commission on International Trade Law

UNGC – United Nations Global Compact

UNODC – United Nations Office on Drugs and Crime

INTRODUCTION

Public procurement – the government purchase of goods, services and works – accounts for a substantial portion of public spending in most countries. It is not only a crucial component of public financial management, but also a critical policy instrument to foster economic growth and achieve sustainable development goals. However, the financial interests at stake, the volume of transactions, and the close interactions between the public and private sectors pose significant mismanagement and integrity risks that might compromise procurement outcomes.

Increased transparency and digitisation, oversight and control, citizen engagement, and robust law enforcement mechanisms are key to safeguard good governance and integrity in public procurement systems. However, to adequately address the multiple and complex risk areas, such measures must be complemented with structured and collaborative efforts, in the form of collective action between governments, the private sector and civil society.

The Integrity Pact (IP) is one of the most popular types of collective action initiative in public procurement. It involves a public agreement between contracting authorities and bidders to commit to transparency and integrity, and a monitoring system providing for independent oversight by civil society. Since its conception by Transparency International in the 1990s, it has been implemented in at least 28 countries worldwide, bringing benefits to hundreds of different contracts across diverse policy areas, from purchase of medicines to infrastructure development.

Over the years, IPs have constantly evolved, in line with trends in the global public procurement landscape. Drawing from the wealth of experience and the lessons learned, Transparency International, in consultation with its national Chapters and partners, has developed this blueprint to guide the implementation of future IPs according to good practice. The blueprint is addressed to practitioners in government, the private sector, civil society and development partners wishing to safeguard procurement projects with strategic policy, financial and social value.

After a brief overview of IPs' role in the current procurement policy landscape, the blueprint provides in-depth guidance on the IP implementation process, including:

- Initiating fit-for-purpose IP initiatives (Section 1)
- Preparing and signing an IP, comprising a public integrity pledge, a corporate integrity pledge, a civil society monitoring agreement, a dispute resolution mechanism, sanctions and incentives (Section 2)
- Effectively executing IPs, with the support of communications, risk management measures, and monitoring and evaluation (Section 3).

Given the wide variety of public procurement operations, the blueprint's purpose is not to provide a one-size-fits-all recipe for IP initiatives, but rather to guide readers through all the key decision-making points they entail, providing examples from past experiences. Practitioners are encouraged to use the blueprint as a base for the development of more detailed policy guidance, models and toolkits tailored to specific country contexts, procurement stakeholders, investment programmes, types of procurement projects, sectors and policy areas.

OVERVIEW – PUBLIC PROCUREMENT AND INTEGRITY PACTS

PUBLIC PROCUREMENT, BAD GOVERNANCE AND CORRUPTION

Public procurement is the acquisition, by governments and state-owned enterprises, of goods, services and works. It is a complex area of operations that encompasses different types of institutional configuration and involves the purchase of inputs necessary not only for the day-to-day operations of public administration, but also for the execution of public policies and the implementation of investment programmes. These include the development of physical and digital infrastructure to provide public services, such as transport, health care or energy.¹

Public procurement usually constitutes a substantial part of government expenditure. Worldwide, its value is estimated to be worth around US\$13 trillion a year,² representing an average of 13-20 per cent of GDP across countries.³ This makes it a strategic function for the management of public finances and the achievement of a country's social and economic goals. Public procurement is also considered a "multiplier" for sustainable development, as it can have an impact on all the United Nations (UN) Sustainable Development Goals (SDGs) and 82 per cent of their targets.⁴

Public organisations are expected to carry out procurement procedures based on the public interest, meeting the demands and needs of citizens, governments and markets. However, this is often not the case, as public officials in many countries lack the capacity for effective procurement planning, tendering and contract management. Due to the substantial amounts of money involved, the complexity of the process, and the multiple interactions between the public and private sectors, public procurement is also subject to significant risks of corruption and undue influence.⁵

Corruption and bad governance in public procurement can severely undermine the value, effectiveness and sustainability of public spending, through distorted allocation of public resources, unnecessary costs and delays, inflated prices, suboptimal quality of public services, and human rights abuses.⁶ Various sources estimate that between 10 and 30 per cent of a public contract's value may be lost to corruption.⁷ According to the International Monetary Fund (IMF), between 30 and 50 per cent of national infrastructure spending is lost due to weak planning, allocation and implementation.⁸

	PUBLIC PROCUREMENT PROCESS	GOVERNANCE AND CORRUPTION RISKS
Planning	The contracting authority explores and identifies the need to procure goods, services or works in line with policy priorities, and carries out market analyses and public consultations to better understand demand and supply.	<ul style="list-style-type: none"> - Selection of unneeded, unfeasible or damaging procurement projects via undue influence, biased decision making or faulty impact assessments. - Planning of wrong or unjustified goods, services or works, due to incomplete and/or inaccurate market analyses and public consultations.
Pre-tendering	The contracting authority develops a purchasing strategy and related documents defining the type of tendering procedure (open or restricted), technical and functional specifications, budget estimates, and selection and award criteria.	<ul style="list-style-type: none"> - Unclear, restrictive or unnecessarily complex tender specifications, which are not aligned with identified needs, or are tailored to favour a specific bidder. - Unjustified splitting of contracts to avoid stricter procedures or enhanced transparency and control mechanisms. - Unjustified selection of restricted tendering procedures to reduce competition. - Leaking of confidential information on tender design to favour a specific bidder.
Tendering	The contracting authority publicly announces the tender, and bidders have a certain time period in which to prepare and submit their proposals, as well as any question related to the procedure.	<ul style="list-style-type: none"> - Inadequate or opaque advertising of the tender, or unreasonable timelines for bid submission. - Offering or extortion of facilitation payments or bribes to participate in tender procedure. - Collusion among bidders to raise contract prices above normal market rates. - Submission of fraudulent bidding information.
Awarding	The contracting authority assesses the submitted bids and awards the contract to the best proposal. If there are no complaints, the authority and the winning bidder sign the contract.	<ul style="list-style-type: none"> - Acceptance of non-compliant or inadequate bids. - Award of the contract to connected individuals or firms due to conflict of interest or favouritism. - Inefficient or unfair handling of complaints.
Implementation	The contractor executes the contract. Once delivery is completed, the whole process may be subject to an ex post evaluation by internal and external audit institutions.	<ul style="list-style-type: none"> - Unjustified deviations from contract conditions and prices, resulting in delays and cost overruns. - Violation of contract conditions, fraudulent reporting and invoicing, acceptance of sub-standard goods, works, and services.

Corrupt and poorly governed public procurement also undermines the international community's cooperation efforts to respond to global crises and problems – as clearly demonstrated by malfeasance during the Covid-19 pandemic⁹ and in projects to mitigate or adapt to climate change¹⁰ – and, more broadly, to achieve the UN 2030 Sustainable Development Agenda.¹¹ Faced with systemic corruption, multi-lateral development banks might withhold financial resources, and private investors might decide to redirect their investments.

PRINCIPLES FOR GOOD GOVERNANCE IN PUBLIC PROCUREMENT

Well-governed public procurement is considered a core component of any government programme. Key international texts and agreements that have driven the drafting of procurement legislation across countries include the UN Commission on International Trade Law (UNCITRAL) Model Law on Public Procurement,¹² the UN Convention against Corruption (UNCAC),¹³ the

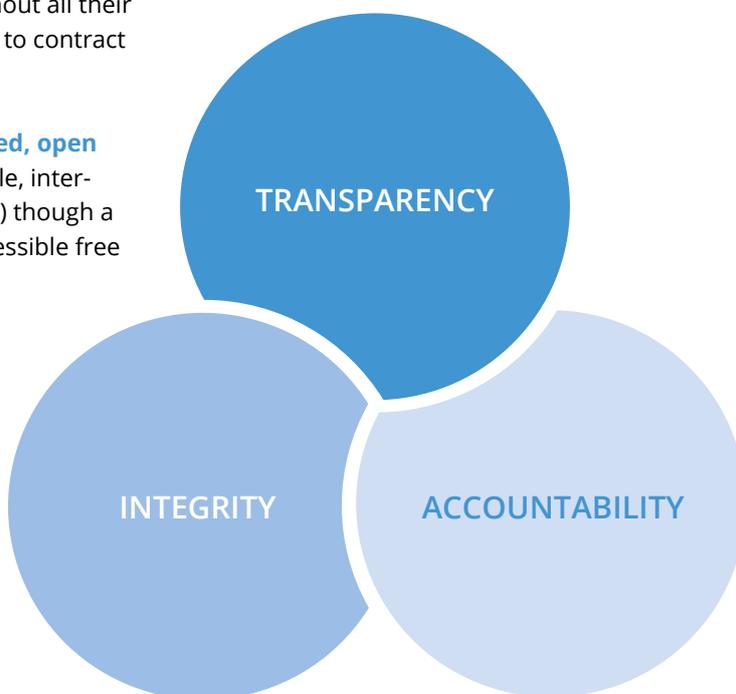
World Trade Organisation’s Government Procurement Agreement (GPA),¹⁴ and the European Union (EU) Public Procurement Directives.¹⁵

While the specifics of the different agreements and texts vary, all promote the establishment of public procurement systems based on the interrelated and mutually reinforcing principles of transparency,

accountability and integrity.¹⁶ These aim to ensure that public procurement operations are open, fair, inclusive, efficient and governed in the public interest. They also envisage robust oversight mechanisms to support accountability in decision making, and solid policies for the prevention and detection of corruption, and sanctions against the perpetrators.

TRANSPARENCY

- **Public access to information** on procurement laws and regulations, as well as on individual procurements throughout all their stages - from planning to contract execution.
- **Provision of structured, open data** (machine-readable, interoperable and reusable) through a centralised portal, accessible free of charge.



INTEGRITY

- **Definition of prohibited practices** – such as corruption, collusion and fraud – and sanctions to punish individuals and firms engaging in them
- **Mechanisms to report violations** safely and confidentially
- **Codes of ethics**, rules to identify and manage **conflicts of interest**, and anti-corruption training for public officials
- **Guidance and incentives** to foster **corporate transparency and integrity** among suppliers

ACCOUNTABILITY

- **Risk-based internal control systems and external audits** to verify regulatory compliance and integrity, and enable prompt reporting of irregularities to competent authorities
- **Public consultation mechanisms** to enable participation and monitoring by civil society and affected communities
- **Complaint mechanisms** for bidders and any other stakeholders to challenge unfair or unlawful decisions

In December 2023, the 10th Conference of States Parties (CoSP) to the UNCAC adopted its first-ever resolution on public procurement.¹⁷ Besides reiterating commitments under the Convention to foster transparency, competition and objective decision making, the resolution calls on governments to provide open data on the whole procurement cycle, strengthen corruption risk management processes – including through data-driven tools, enable adequate resourcing of oversight authorities and cooperation among them, and foster public monitoring and participation.

Importantly, the resolution also encourages governments to foster integrity efforts by suppliers, and support them in establishing anti-corruption programmes through technical assistance and capacity building. In a separate resolution, the CoSP also calls on governments to provide incentives for corporate integrity measures in connection with procurement contracts.¹⁸ Examples include penalty mitigations, integrity requirements for participation in public tenders, and preferences in contract award to firms demonstrating anti-corruption commitments.¹⁹

Such measures are key to effective public procurement, but they might not be sufficient to effectively address the multiple risks involved, especially in contexts of weak governance and rule of law. To foster adequate anti-corruption action, they must be complemented by measures that help develop cooperation and trust among different stakeholders, address the complex and sometimes competing concerns they might have, and harness their potential contribution towards successful outcomes.²⁰ This is what the collective action approach aims to achieve.

COLLECTIVE ACTION

“Collective action” is a fluid concept that has long been used in social sciences and economics to generally define joint actions undertaken by a group of actors towards a shared purpose or goal.²¹ In this publication, and in relation to the anti-corruption field, we refer to collective action as a structured and collaborative effort bringing together government, the private sector and civil society to prevent corruption, foster good governance and improve the business environment in a country, sector or area of public or private operations.

Collective action is a flexible approach, and initiatives may target actors across multiple sectors or single ones. For example, Collective Action initiatives focused on the private sector have aimed to develop voluntary standards, offer capacity building, and share knowledge

and tools to foster fair competition and integrity among firms.²² Other initiatives have aimed to strengthen the openness and accountability of public institutions and their operations,²³ or have brought together citizens to demand government accountability and find solutions for better public service delivery.²⁴

While there is a strong need for a thorough mapping and categorisation of the current range of collective action initiatives for anti-corruption, most of them have entailed two core elements from a conceptual point of view: 1) formal commitments by public or private-sector actors to behave with openness and integrity in their operations, and implement concrete measures to substantiate such commitments, and 2) mechanisms for mutual observation and independent, third-party external monitoring or facilitation, ideally by civil society organisations.

Several international actors, including the UN, the World Bank, the Organisation for Economic Co-operation and Development (OECD), the UN Global Compact, and the B20 have recognised the value of the collective action approach and have recommended its active and formal inclusion in anti-corruption efforts by the public and private sectors.²⁵ Collective action against corruption is also mentioned in both the most recent revision of the OECD Recommendation on Foreign Bribery²⁶ and in the 2021 UN General Assembly political declaration.²⁷

The collective action approach recognises the shared responsibility among stakeholders for good governance and integrity in public procurement. At system and sector level, it can promote dialogue and consensus over anti-corruption reforms and strategies, and level the playing field among suppliers. At project level, it can help ensure that laws are adequately enforced and complemented by voluntary efforts towards good practice, mitigating risks and fostering public trust. The Integrity Pact is a type of multi-stakeholder collective action initiative aiming to achieve just that.

THE INTEGRITY PACT

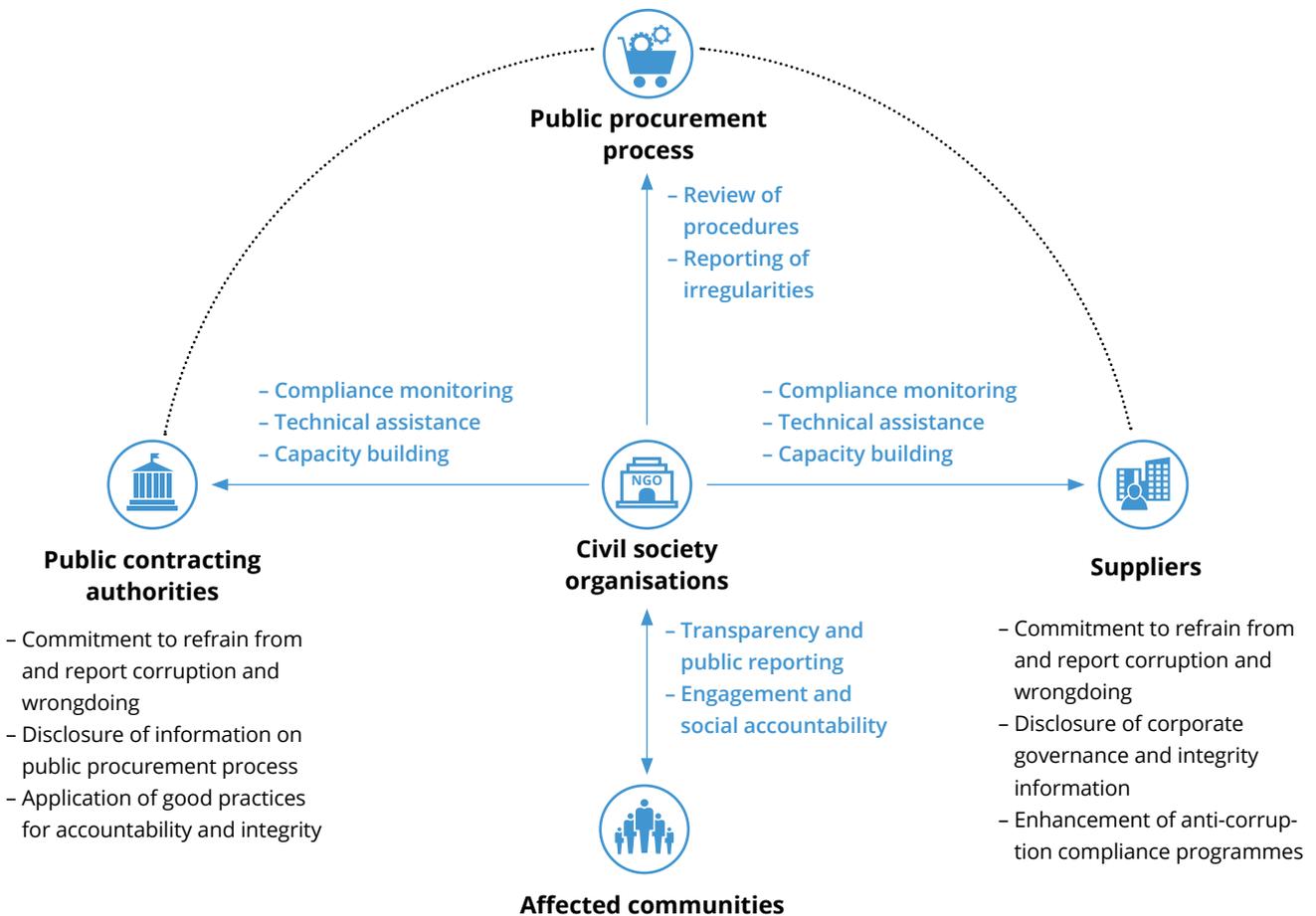
The Integrity Pact (IP), conceived by Transparency International in the 1990s, is one of the most popular types of multi-stakeholder collective action initiative in public procurement. Conceptually, it involves a public agreement between contracting authorities and bidders to refrain from corruption and collusion in a public procurement process, and to report wrongdoing, with a monitoring system providing independent oversight, public reporting, and citizen engagement by civil society. It may also include dispute resolution mechanisms, sanctions and incentives to foster compliance with applicable laws.

In the past three decades, the IP has been implemented in different ways in at least 28 countries worldwide and applied to a wide range of contracts, from large-scale infrastructure to the purchase of medicines.²⁸ In some cases – for example, in Latin America and Asia in

the early 2000s – IPs were applied to groups of procurement projects in one or more sectors, often with legal underpinnings or as part of systemic reform efforts. More recently, particularly in Europe, IPs have been one-off initiatives in individual procurements, based on relevance and opportunity.

To date, the IP has provided a structured framework for cooperation among different stakeholders to ensure regulatory compliance, strengthen institutional capacity, introduce good practices, and foster a culture of integrity through voluntary obligations. It has also provided a formal way for civil society experts to carry out direct monitoring of procurement projects through access to decision-making spaces not normally available to the public. This has brought several benefits in terms of openness, effectiveness, accountability and integrity.²⁹

INTEGRITY PACT CONCEPT



INTEGRITY PACT INITIATIVES WORLDWIDE

Europe

Austria, Bulgaria, Czech Republic, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Poland, Portugal, Romania, Slovenia, Spain

Asia and Pacific

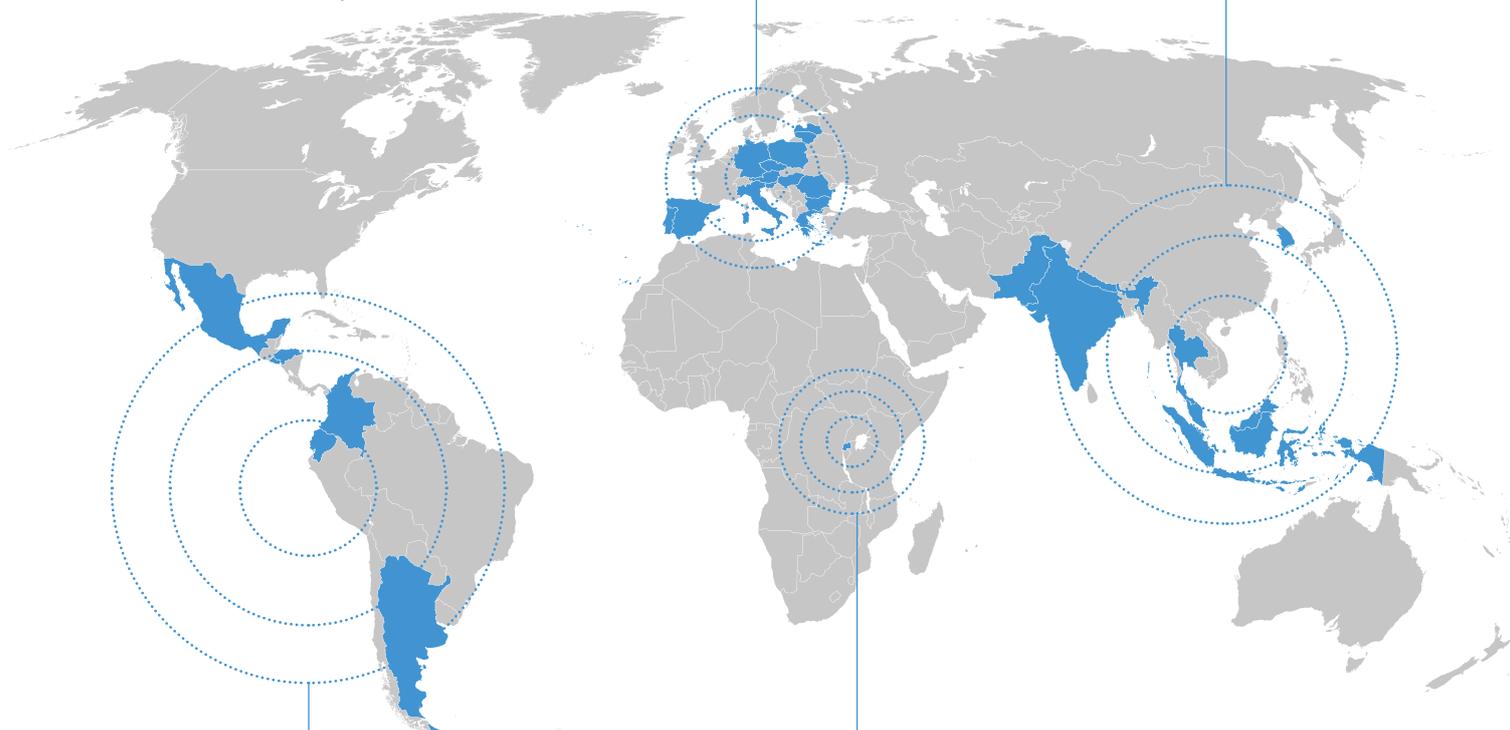
India, Indonesia, Malaysia, Nepal, Pakistan, Thailand, South Korea

Latin America

Argentina, Colombia, Ecuador, El Salvador, Honduras, Mexico

Africa

Rwanda



BENEFITS OF THE INTEGRITY PACT



PROCUREMENT EFFECTIVENESS

In most IP initiatives, independent reviews of procurement procedures by civil society, supported by technical expertise and better access to information, have strengthened procurement governance, improved market analyses and tender documentation, ensured timely project completion, reduced costs, enhanced competition and participation, and facilitated smooth dispute resolution between contracting authorities and bidders. (See page 45 for examples)



PUBLIC AND PRIVATE INTEGRITY

Acting as a real-time control mechanism focused on regulatory compliance, some IPs have enabled early detection and resolution of weaknesses, risks, irregularities, and flaws in public contracting projects, including those related to suspected corruption. Additionally, CSOs have often strengthened integrity by providing anti-corruption training and advising on internal control mechanisms for contracting authorities and bidders. (See page 45 for examples)



OPENNESS AND ACCOUNTABILITY

Through tools and channels developed under IPs, CSOs and contracting authorities have effectively disseminated information on procurement projects to beneficiaries and affected communities. This has enabled better understanding and tracking of the process, facilitated feedback, raised red flags, and involved communities in key decision making. In some cases, CSOs also empowered communities to directly contribute to monitoring and reviewing contracting procedures. (See page 48-49 for examples)

Over the years, IPs have constantly evolved, in line with broader trends in the global public procurement landscape. The most recent initiative, in which IPs were applied to 18 projects funded by the EU across 11 member states, showed their continued relevance in fostering successful procurement outcomes through enhanced oversight and open contracting.³⁰ However, the initiative also raised key challenges and provided important lessons for future implementation, echoing those of previous reviews and evaluations.³¹

Firstly, IPs work best when they are part of a broader ecosystem for transparency, accountability and integrity in procurement operations, and are suitably adapted to their context. They should complement existing oversight mechanisms to ensure regulatory compliance and prevent corruption, or foster meaningful action towards the establishment or enhancement of such mechanisms. In particular, in the context of procurement risk management strategies, IPs should be deployed as a mitigation measure for projects with strategic policy, financial and social value.

Data from e-procurement systems and other government databases can greatly contribute to the improvement of risk management in public procurement and the application of IPs as part of this. When available in open format and high quality, such data enables public authorities and civil society not only to monitor public procurement spending in real time, but also to identify categories of projects subject to governance and corruption risks that would warrant further scrutiny through the IP.³² This helps focus resources for enhanced monitoring where it matters the most.

Secondly, although IPs have exposed suppliers to concepts of corporate compliance and fair competition, in most cases it has been a challenge to obtain their proactive engagement with IPs. This is mainly due to a lack of meaningful consultation in the process, and concerns about additional paperwork or delays. While the latter are proven unfounded, future IP initiatives will need to offer more concrete benefits beyond assurance of improved compliance by competitors, by facilitating the uptake of corporate integrity measures through knowledge sharing and capacity building.

Thirdly, while IPs can bring significant benefits at the project level, there has been recognition that in order to generate systemic and sustainable outcomes, they should be embedded in procurement regulations and policies, and applied systematically to groups of projects – e.g. by sector or contracting authority. This would ideally occur within broader policy reform platforms or collective actions, as in the early initiatives in Latin America and Asia. Although these took place around two decades ago, there is still much to learn from those experiences.

A BLUEPRINT FOR FUTURE INTEGRITY PACTS

Recognising the lessons learned, the wealth of knowledge and experience accumulated since the early 2000s, and recent developments in the public procurement and anti-corruption policy fields, Transparency International – in consultation with its national Chapters and partners – has developed a blueprint for future Integrity Pacts. Reflecting and consolidating the key elements and good practices of successful IP initiatives, and addressing identified shortcomings, the blueprint aims to foster more uniform implementation, while allowing for flexibility and innovation.

The aim of the IP is to mitigate bad governance and corruption risks in public procurement projects that hold a high policy, financial and social value, and would therefore benefit from an additional layer of assurance through collective action and external monitoring by civil society. It can be applied to any type of procurement project involving one or more competitive tendering processes, based on the strategic priorities of governments and other stakeholders in specific sectors and policy areas.

The blueprint provides guidance on the content of the IP, as a public agreement, comprising a public integrity pledge, a corporate integrity pledge and a civil society monitoring agreement, as well as dispute resolution mechanisms, sanctions and incentives. The provisions aim to embed transparency, accountability, integrity and inclusiveness in a public procurement project, and include baseline commitments and activities, as well as more ambitious undertakings that could be linked to broader collective action initiatives or reform efforts.

COMPONENTS AND CONTENT OF AN INTEGRITY PACT

PUBLIC INTEGRITY PLEDGE (CONTRACTING AUTHORITY)

Baseline commitments

- Regulatory compliance
- Reporting of irregularities
- Disclosure of:
 - information on the procurement
 - payments to intermediaries
 - private interests and assets
- Reporting of conflicts of interest
- Internal whistleblowing system

Higher-level commitments

- Publication of procurement data in open and structured format
- Development of internal control systems
- Enhanced consultation of private sector
- Enhanced engagement of affected communities

CORPORATE INTEGRITY PLEDGE (SUPPLIERS)

Baseline commitments

- Regulatory compliance
- Reporting of irregularities
- Disclosure of:
 - beneficial ownership information
 - payment to intermediaries
 - political engagement activities (e.g. lobbying, political financing)
- Submission of internal compliance programmes
- Establishment of specific integrity measures

Higher-level commitments

- Corporate integrity and environmental, social and governance (ESG) reporting
- Adoption and certification of compliance standards
- Sub-contractor and supply chain integrity
- Inclusive contract execution

CIVIL SOCIETY MONITORING AGREEMENT

Duties

- reviewing of the contracting procedure and reporting to the public
- Clarification or reporting of irregularities to competent authorities
- Management of internal conflicts of interest

Rights

- Access to information
- Withdrawal from monitoring

Activities

- Technical assistance for IP commitments
- Transparency and social accountability

DISPUTE

RESOLUTION

- Multi-stakeholder grievance mechanisms
- National or international arbitration

SANCTIONS

- Fines, compensation
- Exclusion from procurement process
- Naming and shaming

INCENTIVES

- Preferences in contract award
- Whitelists
- Public awards and recognition

Besides including revised provisions for contracting authorities and civil society monitors, the IP model seeks in particular to foster a culture of openness and integrity in suppliers' operations and relationships with other stakeholders. Through technical assistance, capacity building, incentives and multi-stakeholder dialogue under the IP, firms can enhance their corporate reporting practices, strengthen their compliance programme, and build integrity capacity, both internally and among sub-contractors, business partners and supply chains.

It is important to note that the aim of the IP is not to replace existing laws and regulations, or to duplicate oversight and law enforcement mechanisms, but rather to enhance their responsiveness and effectiveness. Its content should be based on a country's legal and policy frameworks, the targeted project and the relevant sector, identifying what could be achieved by either correctly enforcing existing regulations, or by including voluntary undertakings – ideally in line with international obligations, such as UNCAC, and recognised best practices.

The blueprint also provides a revised methodology for implementation of the IP as a collective action initiative, encompassing three broad phases: initiation, preparation and execution. These are explained in detail in the sections that follow. However, given the wide variety of public procurement operations, the blueprint's purpose is not to provide a one-size-fits-all recipe for IP initiatives, but rather to guide practitioners through the key decision-making points and the implementation arrangements they entail, providing concrete examples from past initiatives.

PHASES OF AN INTEGRITY PACT INITIATIVE

- 1 Initiation** – One or more initiators explore and discuss the need for implementing an IP, and take steps for its application to one or more public procurement projects. This includes deciding on the scale of the initiative, selecting procurement projects based on a policy-oriented and risk-based approach, defining the desired outcomes, developing budget estimates, identifying sources of funding, selecting CSOs that could play the dual role of facilitators and monitors, and defining governance arrangements. These steps are not necessarily sequential and may happen in parallel or in an alternative order.
- 2 Preparation** – The civil society facilitator develops the IP, in collaboration with and based on inputs from relevant stakeholders, and arranges for the contracting authorities and bidders to sign it. The key elements of the IP – public integrity pledge, corporate integrity pledge, civil society monitoring agreement, dispute resolution measures, sanctions and incentives – can be formalised through a single multi-party agreement or through a combination of different documents, such as bilateral agreements and unilateral declarations.
- 3 Execution** – The contracting authorities and the bidders implement the commitments and activities foreseen in the IP, and the civil society monitor provides advice and technical assistance, reviews the procurement procedures, makes recommendations for improvement, and carries out activities to foster transparency and citizen engagement around the project. Three aspects are crucial: strategic communications to strengthen trust and openness; management of potential risks, and monitoring, evaluation and learning (MEL) to track the progress of the initiative and evaluate its impacts.

The way in which these phases unfold will depend on the circumstances and type of targeted project. In general, IP initiation and preparation should take place during the procurement planning stage. The initiation and preparation phases may also partially overlap and be subject to an iterative process, as the public agreement formalising the IP must contain the specific commitments and activities through which participants will seek to meet the agreed objectives for the initiative.

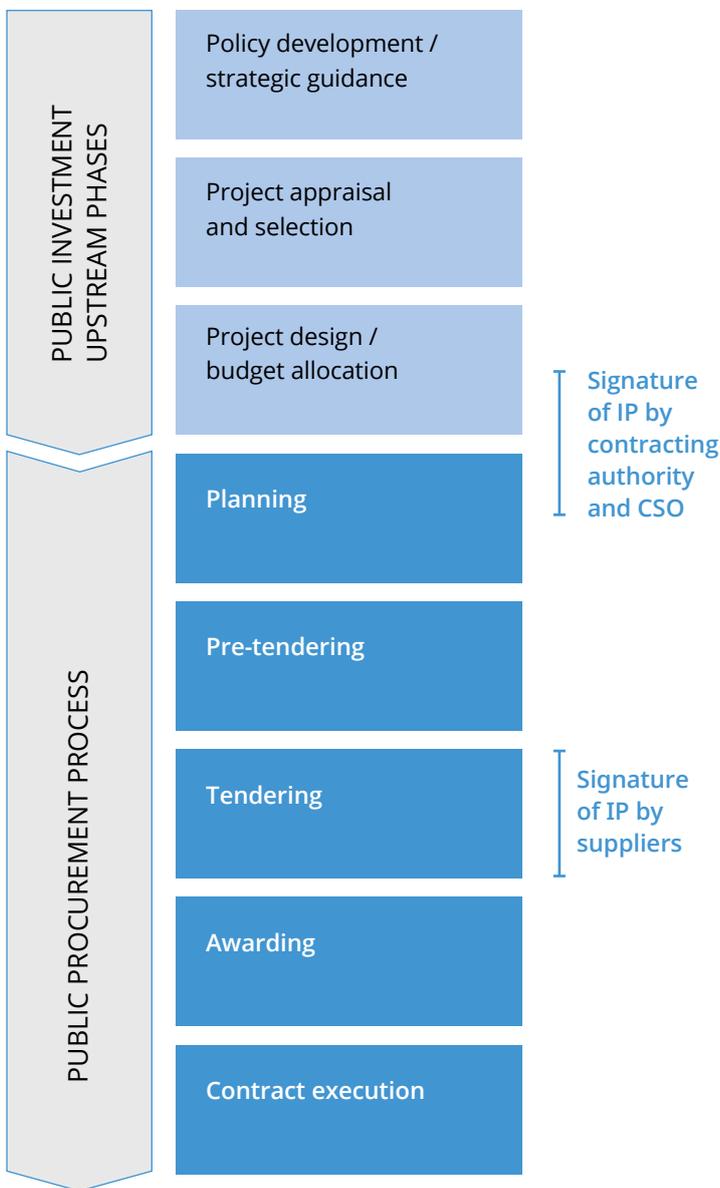
The IP is first signed by the public authority and the civil society monitor, as early as possible in the process, to allow monitoring activities to begin ideally during the planning stage, or no later than the pre-tendering stage. Potential bidders should be notified by contracting authorities about the IP before publication of the tender (e.g. through a Prior Information Notice). In some cases, implementers may also decide to draft the corporate integrity pledge in connection with market consultations, to allow potential bidders to provide input on commitments and activities.

The IP is included in the tendering documents and signed by bidders on submission of their proposals or expression of interest for the bid, if applicable, and remains in force for the winning bidder. Signature of the IP should be a mandatory requirement to participate in the bid, to ensure a level playing field. In countries where procurement regulations forbid mandatory signature of the IP because it is not formally recognised by the law, implementers may devise incentives, such as whitelists, to encourage all bidders to voluntarily sign the IP and comply with it.

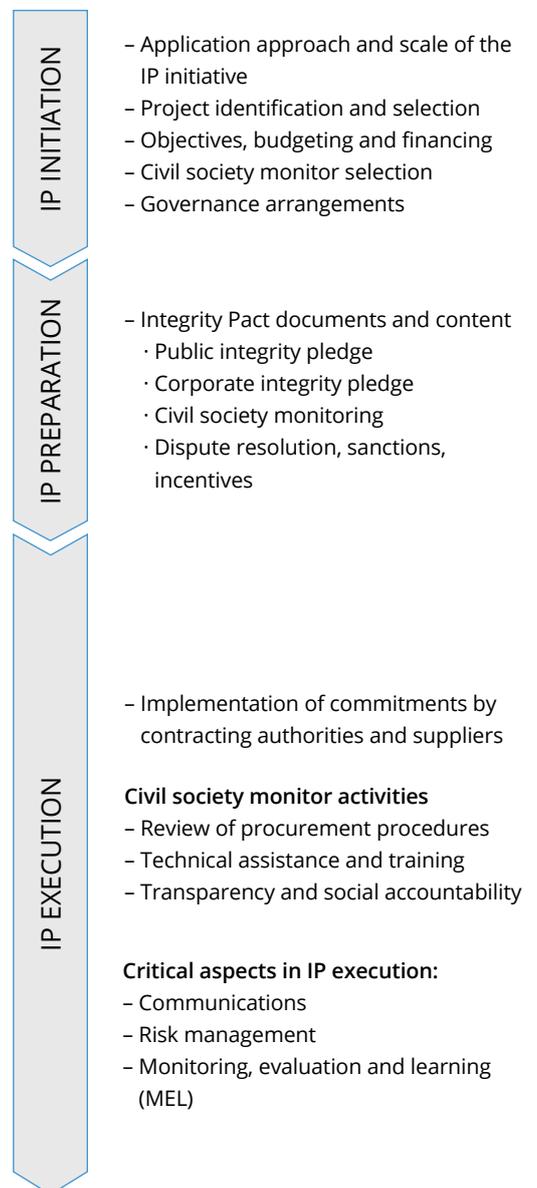
On conclusion of the procurement project and related monitoring, it will be important for participants to collaboratively evaluate the overall impact of the initiative, reflecting on successes, challenges, unintended consequences and lessons learned, and providing recommendations for the improvement of future procurements. This phase could be tied to formal ex post evaluation and audit of the procurement project, when applicable, as information accumulated and generated through the IP may be relevant and useful to assessors and competent authorities.

THE INTEGRITY PACT ACROSS THE PUBLIC SPENDING FLOW

Public spending flow



Integrity Pact implementation



1 INTEGRITY PACT INITIATION

Considerations for the adoption of the Integrity Pact

WHO CAN INITIATE AN INTEGRITY PACT AND WHY

Public procurement is embedded in a country's political, economic and social dynamics, and is linked to the formulation and execution of government policies to address concrete societal issues. In line with such

dynamics, any stakeholder typically involved in public procurement – including, among others, public authorities, business actors, civil society organisations (CSOs), and international or regional development partners – may seek to initiate an Integrity Pact, with varying motivations and incentives for doing so.

STAKEHOLDER MOTIVATIONS TO INITIATE AND SUPPORT INTEGRITY PACTS



Governments and Contracting Authorities

- Mitigate mismanagement and corruption risks in high-value public investments, and ensure effective outcomes
- Facilitate the introduction or uptake of reforms, and test novel approaches to enhance business engagement and public trust



Development Partners

- Safeguard critical investment projects in aid-recipient countries
- Ensure effective operationalisation of and compliance with fiduciary principles and standards



Private Sector

- Foster fair competition and minimise corrupt and fraudulent behaviour in specific markets or sectors
- Foster adoption of integrity practices among competitors



Civil Society

- Pursue social development objectives
- Enhance citizen involvement and protection of public interest
- Uphold governments' anti-corruption and good governance pledges

For any actor engaged in the initiation of an IP, assessing the country context is essential, not only to understand whether the national operating environment is suited to this type of initiative, but also to identify opportunities and entry points to collectively improve public procurement outcomes through IP implementation. Such analysis will also provide the necessary arguments to convince relevant stakeholders of the need for an IP and to foster mutual understanding of the potential added value and benefits it would bring.

Identifying opportunities and entry points

Stakeholders and their motivations to initiate and support an IP have varied across countries, but constructive engagement among them to solve a country's procurement-related problems or challenges has always been a key element of a successful IP. Potential entry points and contributing factors that may prompt actors in government, business, civil society or the donor community to propose or support an IP are often interrelated, and include:

- The launch of reform programmes by the central government to improve public procurement governance and related integrity measures, requiring multi-stakeholder cooperation for effective uptake and implementation. For example, in Colombia³³ and Pakistan,³⁴ governments and civil society collaborated to apply IPs to several procurement projects to ensure that contracting authorities would adequately implement newly adopted regulations.
- The emergence of acute concern and societal pressure for transparency, accountability and integrity in public procurement, due, for example, to evidence of governance and integrity weaknesses in specific sectors. For example, in Honduras, the government decided to adopt IPs as a solution after evidence of widespread corruption and collusion in the procurement of medicines.³⁵
- The planning of high-value public investment projects, such as infrastructure, funded by the national budget or external financiers, and entailing substantial procurement operations that require an additional layer of supervision. For example, in the EU, the European Commission has promoted and supported IPs to safeguard high-value investment projects linked to the EU Cohesion Policy, which aims to reduce regional disparities and promote economic, social and territorial convergence across the EU (see page 20).³⁶

While identifying relevant entry points is crucial, it will also be necessary to check whether the IP is suitable

in a specific country context. Previous research on IPs suggests that the pre-requisites for effective outcomes include political will and stability, a moderate-to-high level of development in public governance and procurement systems, and the presence of civil liberties and a free, strong and organised civil society. In the absence of one of these factors, the IP would lack a reasonable chance of enforcement.³⁷

Aligning stakeholders' incentives

When assessing the operating context, initiators also have the key task of identifying potential stakeholders who might be interested in joining or supporting the IP, and bringing them together – for example, through introductory meetings or workshops – to explore and align their motives and incentives, and convince them of the IP's benefits. To muster the necessary support, the initiator needs to have a good reputation, knowledge of the subject matter, and capacity to convince parties and bring them on board.

Support from the public contracting authority or its parent institution, as owners of a procurement project, is essential. Initiators will have to present a clear proposition not only of the added value of the IP to the process, but also of how it aligns with procurement priorities, strategies and policies, and how it can contribute to the achievement of national policy objectives or the SDGs. Seeking support from CSOs or business associations in the concerned sector will also be important, to gain better understanding of the issues involved and foster political will.

Linking the IP to the fulfilment of international obligations on public procurement and anti-corruption, such as those under the UNCAC, will make it easier to leverage any necessary support from international institutions to catalyse action and foster political will. At the same time, the process and goals must be localised and context-specific to ensure impact, accountability and ownership. If the initiators belong to large international groups operating abroad, they will need to show sensitivity towards the socio-cultural context in which the initiative will occur.

Depending on the context, introductory meetings and approaches might not be easy. The initiator will have to negotiate cleverly to find a starting point everyone can agree on. In such efforts, it will be key to secure the support of "champions" – political, business or civil society leaders who have a long-standing commitment to public procurement and collective action, and relevant in-depth experience. These champions may

facilitate conversations with sceptical stakeholders and build the necessary confidence in the initiative.

APPLICATION APPROACH AND SCALE OF THE IP INITIATIVE

Depending on the entry points and initial discussions with stakeholders, initiators must determine the application approach they intend to follow for the IP – i.e. the number of different procurement projects the IP will be applied to over a certain timespan – which in turn will determine the scale of the initiative. There are three main types of IP application approach – case-based, systematic and cross-national. The choice will depend on the proponents' goals, the country circumstances and the availability of finance and resources (see pages 26-27).

Case-based application

At a basic level, the IP can be applied to an individual procurement project as a one-off initiative. This approach, in the form of “piloting”, is indicated for countries where an IP has never been implemented before, as it allows stakeholders to draw important lessons on its functioning and adaptation to the national regulatory environment, for potential future replication. It is also indicated for countries with effective systems of governance and oversight of public procurement, as a complementary measure to safeguard specific high-value or high-risk projects.

The case-based approach has been common in Europe, where IPs have mostly been implemented as one-off initiatives targeting individual procurements, based on relevance and opportunity. In many instances, national and local contracting authorities, with financial support from their own budget or external donors, teamed up with CSOs to enhance the effectiveness and public scrutiny around relatively large infrastructure projects and standard civil works. Relevant examples include IPs for contracts in transport infrastructure and public services in Bulgaria, Germany, Hungary and, more recently, Spain.³⁸

Case-based IP initiatives can bring benefits to high-value procurement projects and contribute to the identification of systemic issues. However, their capacity to generate long-term and sustainable outcomes at the procurement market or system level will be limited, and dependent on the size of the procurement project and the ambition of stakeholder engagement activities (see

pages 48-49). It will be easier to aim for policy and institutional changes when the IP is applied to large projects – for example, on infrastructure, entailing several contracting procedures.

Systematic application

At a higher level of ambition, IPs can be applied systematically to multiple procurement projects, targeting specific sectors or policy areas (e.g. climate action, health care), contracting authorities (e.g. ministries, state-owned enterprises), levels of government (national, subnational) or public investment programmes. This approach, which can also take the form of piloting, is indicated more for situations where proponents are seeking to clean up or enhance the effectiveness of the public procurement system or specific markets, through large-scale, multi-stakeholder cooperation.

A sectoral focus is likely to provide more solid results, as stakeholders in the same sector often face the same regulatory environment and risks, and are likely to know the main issues that need addressing. Nevertheless, proponents may also want to cover multiple sectors across government levels or types of contracting authority – for example, to facilitate or monitor the uptake and implementation of newly introduced procurement reforms, or to safeguard a portfolio of public investments.

Systematic IP application could also be part of broader efforts to engage with business associations and industry-specific private-sector actors in the development and implementation of strategies, measures and incentives to foster suppliers' uptake of transparency and integrity practices. Engagement could take different forms, such as open dialogues, training and public events, as well as formal integration of the IP in existing sectoral collective action initiatives sharing the same objectives.

Systematic IP application was a feature of some of the first IP initiatives in the early 2000s in Latin America (Colombia)³⁹ and Asia (Indonesia and South Korea),^{40,41} contributing to better governance of individual projects, effective implementation of procurement reforms, and improved public and private integrity behaviour. More recently, in Rwanda between 2015 and 2016, IPs were applied to nine infrastructure projects across various districts, contributing to better governance and citizen engagement.⁴² In Honduras, a “framework IP” was applied to recurrent purchases of medicines

between 2017 and 2021, contributing to reduced corruption, improved competition and lower prices in the procurement market.⁴³

Although more ambitious in nature than the case-based approach, systematic IP application is also more complex and requires specific conditions for effective implementation. These include significant political will, large amounts of funding (see pages 26-27), mechanisms for collaborative selection of procurement projects (see page 24), and ample availability of capable civil society monitors (see pages 28-29). To underpin or mainstream systematic IP application, governments or development partners may even go a step further and recognise the IP in procurement rules (see below).

To date, at least seven countries have recognised IPs in legislation. In Mexico, the “Social Witness” programme introduced in 2004 embeds integrity pledges and civil society monitoring in high-value procurements, and features institutional mechanisms to streamline implementation.⁴⁴ Similar systems have also been put in place in India⁴⁵ and Thailand⁴⁶ – albeit without a formal role for civil society. In Argentina,⁴⁷ Italy,⁴⁸ Malaysia⁴⁹ and Pakistan,⁵⁰ the IP is meant as a simple integrity declaration, though in all bar Malaysia, this has facilitated the inclusion of civil society monitoring mechanisms in specific projects.

The criteria for application of “institutionalised IPs” vary. For example, in Italy and Argentina, their adoption by contracting authorities is optional. In Pakistan and Mexico, their use is mandatory for procurement projects over a certain financial value. In addition to such criteria, common features to support systematic application in Mexico, India and Thailand have included public institutions in charge of providing technical support and guidance in IP application, mechanisms for the accreditation of independent monitors, and rules and guidelines for budget allocations by public authorities.

Cross-national application

With the cross-national approach, IPs are applied simultaneously to procurement projects across different countries, in a case-based or systematic manner. This approach is indicated for international or supra-national actors providing aid or loans to multiple countries and looking to foster improvements in the governance,

integrity and social accountability of funded investment programmes or procurement projects. It also promotes cross-national learning and peer exchanges in specific policy areas or types of contract.

Between 2015 and 2022, the European Commission, Transparency International and 15 CSOs partnered to pilot the IP on 18 EU-funded projects across 11 member states.⁵¹ So far, this is the only case of cross-national IP application, and it included countries both with and without previous IP experience. The monitored projects had a combined value of €920 million and covered a wide range of sectors, including transport, education, cultural heritage, water management, administrative capacity, energy, land administration and urban development.

While the application approach at the country level remained case-based, the initiative brought several benefits to individual projects, contributing to increased quality of contracting strategies and tender documents, timely project delivery, cost savings, and early identification and resolution of irregularities, including some linked to potential corruption and fraud. Importantly, the initiative provided valuable lessons not only for future “mainstreamed” application to safeguard the EU Cohesion Policy, but it also encouraged authorities in 15 countries to mention application of IPs in the next round of EU funding (2021-2027).⁵²

Cross-national IP initiatives have good potential to support cooperation efforts by international development partners and governments towards the achievement of the SDGs by safeguarding strategic investment programmes. However, in addition to all the above-mentioned preconditions for systematic application, they also require effective mechanisms for coordination among stakeholders in different countries, to deal with differences in public contracting systems, as well as different lengths of the selected procurement projects and related procedures.

IP APPLICATION APPROACHES

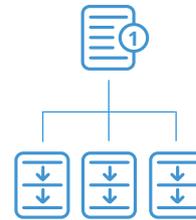


CASE-BASED

Application to individual procurement projects as a one-off initiative, based on relevance and opportunity

Procurement projects

Procurement procedures

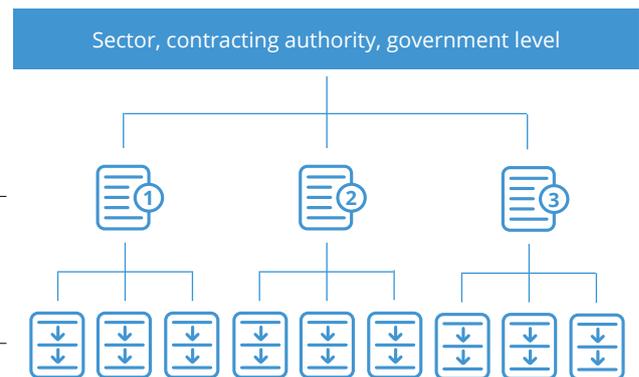


SYSTEMATIC

Application to multiple procurement projects grouped by sector, policy area, contracting authority or government level

Procurement projects

Procurement procedures



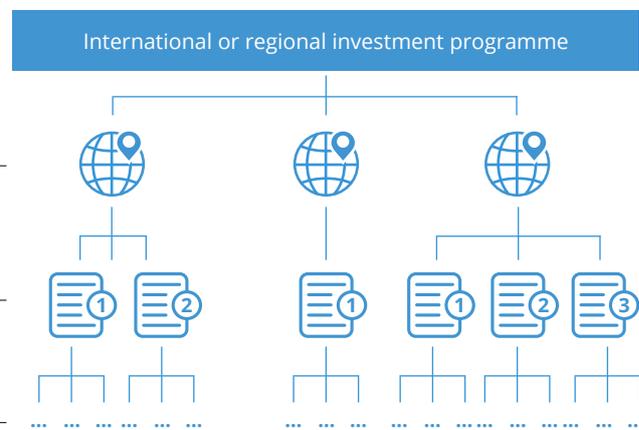
CROSS-NATIONAL

Application to one or more procurement projects across different countries, as part of international or regional investment programmes

Countries

Procurement projects

Procurement procedures



Procurement project identification and selection

The identification and selection of one or more procurement projects amenable to application of an Integrity Pact is one of the most consequential decisions for the success of the initiative. There is no unique formula for arriving at a suitable choice. Depending on the application approach chosen, IP proponents should elaborate their own methodology, analysing different variables related to project value and risk, in light of the specific circumstances in which IP implementation is being considered. This should ideally be done in a collaborative manner.

PROJECT IDENTIFICATION

Proponents can assess various sources, often tied to political and administrative cycles, to identify upcoming policy-relevant contracting projects that could benefit from application of an IP. These include, for example, national or local development strategies, public investment programmes, or infrastructure project registers and plans. The usefulness of these sources, if available, can vary depending on whether they list specific projects and indicate budget allocations, meaning it may be necessary to follow up with relevant public bodies to get additional information.

A first set of key variables to consider relates to the project value, including:

- **Policy relevance** – the expected contribution to achieving the government or contracting authority's policy objectives.
- **Financial value** – in absolute terms or as a proportion of the overall budget of a contracting authority or public investment portfolio.
- **Social relevance** – the estimated number of beneficiaries and how soon they are expected to see the benefits of the project to the quality of their daily life.

THE EUROPEAN COMMISSION'S KOHESIO PLATFORM

Kohesio is a centralised digital platform launched by the European Commission in March 2022,

aiming to enhance transparency in the management of public investments under the EU Cohesion Policy. The platform aggregates and publishes data on over 1.5 million projects across 27 member states from 2014 onwards. This data, provided in open format, is updated regularly to reflect new projects and progress, and users can perform advanced searches based on multiple criteria, such as country, region, fund type and policy theme. Kohesio also features interactive maps that visualise where EU investments are being made.⁵³

As a preventative measure against bad governance and corruption, the IP can have greatest impact for procurement projects that are key to the execution of public policies, involve significant sums of money, and are expected to have a tangible impact on citizens. While infrastructure projects typically fit these criteria, how valuable or strategic a specific type of procurement project is perceived to be – whether for goods, services, works or infrastructure – will ultimately depend on the actors involved, their mission and objectives, and the sectors targeted by the initiative.

Assessing governance and corruption risks

Along with the project value, initiators must also assess regulatory and compliance risks which could negatively affect or compromise the outcome of the candidate projects, and the likelihood of their occurrence. Initiators should look into indications or evidence from previous projects in the same sector or with similar characteristics to those considered for IP application. This could include media reports, complaints from citizens or civil society, law enforcement investigations and audit reports. In particular, they should focus on:

- **Weak governance risks** – The risk that public contracting organisations and officials carry out inadequate procurement planning, incompetent management of tendering procedures, and poor contract administration. This may happen due, for example, to lack of adequate capacity or resources, or of appropriate rules and mechanisms to ensure effective decision making. Conversely, in public procurement systems with excessive requirements, controls and formalities, public officials may deliberately ignore rules to save time and costs.⁵⁴
- **Corruption and collusion risks** – The risk that corrupt behaviour by public and private actors compro-

mises the outcomes of the procurement project. This makes it particularly important to look into: 1) risks of undue influence or bribery to steer the procurement rationale, specifications and award decision in favour of a supplier, 2) risks of conflict of interests, when public officials have business connections with a supplier, and 3) risks of collusion, fraud and anti-competitive behaviour by suppliers to obtain a contract or share the profits.⁵⁵

Public procurement data can be a useful source of information to identify potential corruption or mismanagement risks in similar previous projects. When available in high quality and backed by solid indicators, procurement data can allow the identification of red flags, such as unusual bid patterns or single bidding; multiple or substantial contract change orders; unjustified price increases; delivery of poor-quality of goods, works and services, and the identification of project categories or contracting authorities that deserve enhanced scrutiny.⁵⁶

THE WORLD BANK'S GOVERNANCE RISK ASSESSMENT SYSTEM

The World Bank has developed the Governance Risk Assessment System (GRAS), a tool that uses advanced data analytics to improve the detection of risks of corruption, collusion and fraud in public procurement.⁵⁷ GRAS draws on large volumes of data from procurement and corporate registers, as well as other public datasets, such as political financing registers, blacklisted firms and public-sector payrolls. Following a conceptual framework covering 60 red flags, GRAS cross-references the datasets and screens relationships among stakeholders, indicating risks associated with collusive practices, supplier characteristics and political connections.

GRAS was developed in Brazil, where it was piloted in four sub-national governments in late 2022. Key results include the identification of over 850 suppliers with strong indications of collusive behaviour; 450 suppliers likely to be registered under nominee or fake directors, hiding their true beneficial owners; 500 cases of conflict of interest involving supplier companies owned by public servants, and around 4,500 companies with connections to political campaigns.

While the IP mainly aims to mitigate regulatory and compliance risks, with a focus on mismanagement and corruption, initiators should also assess other types of risk, to understand in which way they could have an impact on or be mitigated by IP implementation. These include environmental or social sustainability risks; operational risks, such as public-sector capacity; and budgetary, market or economic risks.

The project risk assessment can be facilitated and strengthened if the IP initiation process is linked to formal procurement risk-assessment procedures, which are typically carried out in the planning phase and, in the case of public investments, in the appraisal or project design phase. If such procedures are not in place, proponents will have to devise their own risk-assessment process based on available data and information, such as audits, research and assessments, as well as consultations with procurement, anti-corruption and competition oversight authorities.

It is important to keep in mind that contracting authorities with a history of corruption are unlikely to be willing to initiate or be involved in an IP and agree to independent external monitoring. However, a history of corruption may also mean that there is greater pressure to adopt integrity-oriented reforms and policy changes. In these cases, where possible, parent government bodies or project financiers may want to make IP application a mandatory condition for the disbursement of funds to the contracting authority.

PROJECT SELECTION

Following the identification of a pool of candidate procurement projects, proponents should make a final selection for applying an IP based on a further examination of project characteristics and the circumstances of their implementation. This will help to better understand the feasibility of an IP, identify potential context-related opportunities and challenges that may affect the costs, smooth implementation and potential impact of the initiative, and develop budget estimates for IP activities, commitments and monitoring. Key variables include:

- **Project size** – Some procurement projects – for example, those related to infrastructure – are likely to involve several separate contracting procedures, and it may not be feasible to cover them all. IP proponents should therefore focus on the most critical ones.

- **Stage of the project or related contracting procedures** – To really have an impact, IP execution in the form of civil society monitoring and implementation of commitments must start no later than the pre-tendering stage. Procurement projects or procedures already past this stage will not be suitable.
- **Technical complexity of contract subject matter** – IPs applied to procurements for complex goods, works or services, such as IT systems or specialised medical equipment, will require expertise that may not be easy to find, and extra efforts to ensure meaningful involvement of affected communities.
- **Project duration** – IPs for procurements whose implementation is expected to span several years – such as public works or infrastructure – will be more expensive if proponents intend to monitor the contract execution phase as well.
- **Stakeholder characteristics** – These include the political will and administrative capacity of the contracting authority; the conditions of the procurement market; the number, type and size of expected bidders; the presence of capable and credible CSOs that could independently monitor the project, and the presence of defined and organised groups of affected communities or beneficiaries.

Committed and resourceful contracting authorities, capable CSOs, integrity-sensitive bidders and inquisitive affected communities will increase the chances of an ambitious, smooth and impactful IP project. IP proponents should also bear in mind that if such conditions are not in place, the implementation of the IP itself can foster their creation – for example, by strengthening institutional capacity of public authorities, increasing the bid attractiveness to potential suppliers, or enabling meaningful citizen participation.

Analysing the variables above, proponents should discuss and confirm whether an IP is feasible for a specific project, and whether investing resources to apply it would be worth the level of improvement in the project transparency, integrity and accountability. It is better to approach this task as an open, collective discussion among IP proponents and potential stakeholders, bearing in mind the country's specificities. Participants in the discussion should represent a broad range of perspectives, including public officials, civil society, business representatives and academics.

To support the implementation of large-scale initiatives featuring systematic IP application, implementers can

establish multi-stakeholder boards or committees convening representatives from government, the private sector and civil society to decide on which projects IPs should be applied to, in line with national development goals, strategies or sectoral plans. They could also be tasked with deciding who should monitor the project and recommending a specific configuration and objectives for the IP.

The appointment of individuals to these boards and committees should be open, transparent and based on objective criteria. Members should be subject to rules to prevent conflicts of interest and favouritism – for example, through ad hoc declarations of private interests and assets. It is very important that documentation on the work and proceedings of these bodies is available to the public for scrutiny, ideally on a dedicated website.

PROJECT IDENTIFICATION AND SELECTION



Integrity Pact objectives, budgeting and financing

DEFINING THE OBJECTIVES OF THE INTEGRITY PACT

After one or more procurement projects have been selected, it is advisable for initiators to identify and agree on the key desired outcomes of the IP initiative and on the general intervention strategies to achieve them. These should be operationalised in the form of concrete commitments and activities within the IP preparation stage, taking into consideration the national legal framework and international obligations (see page 32). Historically, IPs have sought to improve public procurement outcomes across three broad areas:

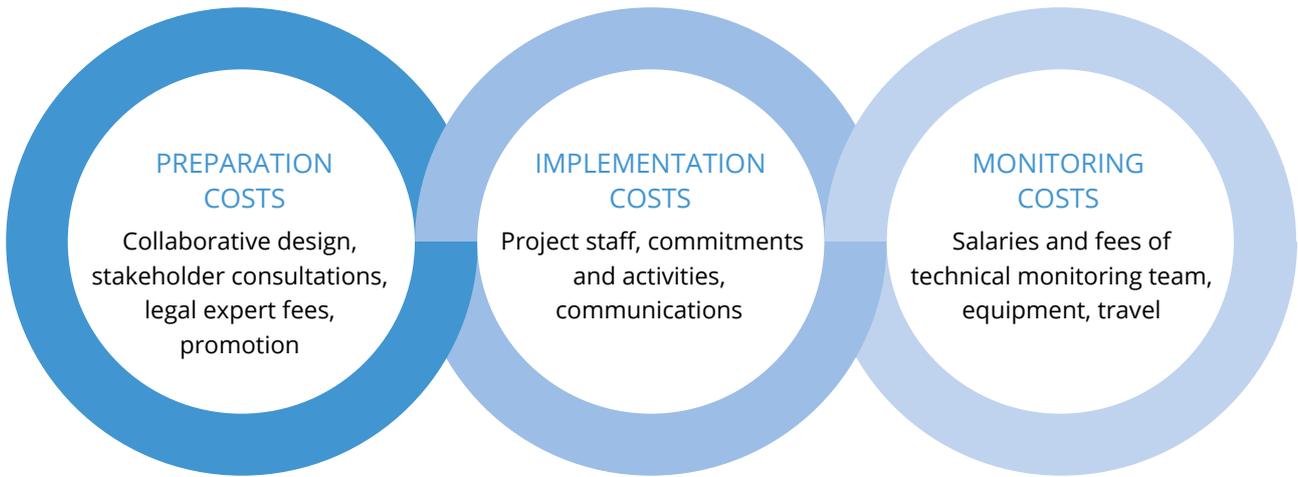
- **Public integrity and good governance** – Intervention strategies in this area aim to enhance public integrity; oversight and accountability; corruption prevention and effectiveness of project governance. In addition to real-time monitoring and technical assistance delivered by the civil society monitor, the IP can include commitments for the contracting authority to strengthen integrity policies – e.g. development of codes of ethics and risk management processes, as well as capacity building to foster the uptake of such measures.
- **Business transparency, integrity and fair competition** – Intervention strategies in this area aim to foster business integrity, fair competition and proactive engagement among bidders and contractors. The IP can include provisions for the adequate disclosure of corporate integrity data and reporting on environmental, social and governance (ESG) issues, with a focus on anti-corruption, as well as requirements or commitments to have in place comprehensive internal compliance programmes or specific elements of them.
- **Open contracting** – Intervention strategies in this area aim to foster maximum transparency throughout the whole public contracting cycle, to enable fair competition, public scrutiny and proactive engagement among affected communities and citizens. The IP may contain commitments by the contracting authority to disclose data and information on the project in a user-friendly manner, or provisions to allow citizens to contribute to the civil society monitor's work and be consulted on project issues relevant to them.

Defining the main objectives and activities of an IP initiative in relation to the characteristics of the project and the stakeholders involved will make it easier to prepare budget estimates (see next section), as well as precise indicators against which the progress and impact of the initiative can be measured (see page 58).

INTEGRITY PACT COST ESTIMATES AND BUDGETING

Integrity Pacts do not have a fixed price tag. Their cost can vary depending on previous experience with IPs, project characteristics, and the objectives and ambition of the initiative. The analysis carried out for project identification and selection should provide relevant indications regarding a preliminary budget estimate, which can be further refined in the IP preparation stage. A typical IP budget comprises preparation costs, implementation costs, and monitoring costs, and the latter are usually the most substantial (see below).

INTEGRITY PACT COST ESTIMATES AND BUDGETING



The specific point at which the IP budget is estimated is linked to the context. In some cases, initiators may conceive an IP initiative, develop budget estimates and look for funding sources (see next section). In others, initiators may already have financial resources at their disposal, and project selection and IP objectives will need to be tailored accordingly. Depending on the amount of expected or available financial resources, IP initiatives may have different sizes and levels of ambition along a continuum:

- **Small IP initiatives** focus almost exclusively on the review of procurement procedures by the civil society monitor and technical experts, and may end after contract award, to cut costs. They may entail baseline compliance and disclosure commitments by contracting authorities and bidders, and communication may be limited to reporting on the progress of the procurement projects, and observations from the civil society monitor.
- **Large IP initiatives** usually entail a complete review of the whole procurement process, implementation of ambitious commitments – including internal reform efforts – by public authorities and bidders, and additional activities, such as capacity building for stakeholders or innovative involvement of affected communities. Communication activities are intense and can include awareness raising, advocacy campaigns and public events.

An analysis of the 18 “large” IPs carried out under the pilot project in the EU shows that, on average, budgets for individual IP projects, including costs for IP design and preparation, represented only a tiny proportion of the overall value of the monitored contracts – between 1 and 3 per cent of contracts worth €10-15 million, and 0.1 and 0.4 per cent of contracts worth €100-150 million.⁵⁸ For each project, approximately 90 per cent of the budget went to monitoring costs. This indicates that the IP can be a relatively inexpensive tool, especially considering the potential benefits deriving from its successful application.

SOURCES OF FUNDING FOR AN INTEGRITY PACT

There can be various sources of funding for an IP, typically coinciding with one or more entities that wish to initiate or support an initiative to pursue their goals and fulfil their mission. An IP’s funder will often determine the overall size and ambition of the initiative, by making a certain budget available. Drawing from past IP experiences, there are two main options:

- **External donors**, such as international organisations, foreign aid agencies, multilateral development banks and philanthropic organisations, are best positioned to fund large IP initiatives through grants or core funding to CSOs, or by including the IP costs in the budgets of specific procurement projects they are financing and wish to safeguard. For example, the pilot IP project in the EU was entirely funded by the

European Commission through grants to the selected civil society partners.⁵⁹

- **Governments or contracting authorities** can fund IPs from their own budget – for example, by setting aside a sum of money and then selecting relevant procurement projects, or by including the IP cost in specific project budgets. The funds for monitoring can be disbursed to CSOs through grants or service agreements, as was the case in the Czech Republic,⁶⁰ Hungary⁶¹ and Spain.⁶² In Mexico, as part of the Social Witness programme, monitors are paid by the contracting authority based on an hourly rate set by the government.⁶³

To make the IP initiative more cost-effective for potential donors, proponents may also consider adopting a mixed funding approach for specific IP-related elements and activities. For example, external donors could fund the civil society monitoring mechanism, communications and citizen engagement activities, and public authorities could fund IP activities targeting public officials and bidders, such as capacity building, technical assistance and public events. Activities targeting suppliers could be funded by business associations representing them.

Initiatives featuring systematic IP application will also require substantial and sustainable funding for monitoring and activities across several projects. In such cases, governments, development partners and independent donors can establish dedicated “civic monitoring funds” that could be used to finance IPs in strategic public investments, with financial resources calculated as a proportion of total programme costs. The allocation of funds to different IP projects could be discussed and decided by multi-stakeholder boards or committees (see page 24).

In general, the ideal funding source is one that eliminates any possible conflict of interest or interference in the monitoring process and in IP implementation as a whole. Irrespective of where the funds originate, the sources and figures must be disclosed publicly to bring credibility to the IP and secure the monitors’ impartiality and independence. The formal funding agreement, such as a grant or service agreement, must clearly state that disbursement will not be subject to the outcome of the independent monitoring.

The issue of possible conflict of interest and interference in the IP is more relevant where IPs are funded by the public contracting authorities who are subject to monitoring, with practitioners raising concerns about

window-dressing and interference in the civil society monitor’s work. Besides taking the steps outlined above to ensure transparency and independence of the monitor, IP documents must grant the monitor the ability to report cases of undue interference and the right to withdraw from the IP if these compromise the initiative (see pages 45-46).

Identification and selection of the civil society monitor

THE ROLE OF CIVIL SOCIETY ORGANISATIONS IN THE INTEGRITY PACT

CSO involvement is an essential element of an IP. By CSO, we refer in this publication mainly to non-profit, non-governmental organisations (NGOs), networks, coalitions and community-based groups advocating for or providing services in areas of social and economic development, such as good governance, anti-corruption or specific policy topics, such as health care or education.⁶⁴ Within an IP, CSOs can play a dual and crucial role:

- As facilitators, CSOs may lead or coordinate the initiation, preparation and implementation of the whole IP initiative. This includes not only responsibility for the execution of various activities, but also for key aspects such as communication and stakeholder engagement, risk management, and monitoring, evaluation and learning (see Section 3, “Critical aspects in Integrity Pact execution”).
- As monitors, CSOs review the regulatory compliance of the procurement project and related decision-making processes. They also verify and support the implementation of commitments and activities by contracting authorities and bidders by providing technical assistance, and open up the procurement process to the public by facilitating information disclosure and citizen engagement.

The civil society monitor or facilitator is the main source of credibility and reassurance for the contracting authority, bidders and other stakeholders that an IP has a chance of achieving the agreed outcomes. As such, it must not only meet certain criteria for capacity and independence (see next section), but must also create a team composed of the right mix of in-house and external staff to adequately manage the initiative, handle the technical aspects of a procurement project, and address the needs, concerns and expectations of multiple stakeholders.

Historically, the roles of facilitator or monitor have been played by Transparency International Chapters, though other CSOs have also been involved in several IPs. Having a good-governance or anti-corruption CSO involved in the IP is a very important element. Depending on the type of IP, this expertise could be complemented

by another organisation with technical knowledge on relevant policy areas, such as health care, education or the environment. Such a combination will be key for an effective IP.

While facilitation of the IP initiative may be shared with the contracting authority or other participants, monitoring must be led by a CSO, given its presumed independence from public authorities and bidders. Monitoring led by governmental organisations or private firms is not impossible in principle, but it is likely to raise doubts concerning the impartiality of an IP, and make implementers vulnerable to reputational risks. It would also go against IPs’ multi-stakeholder orientation.

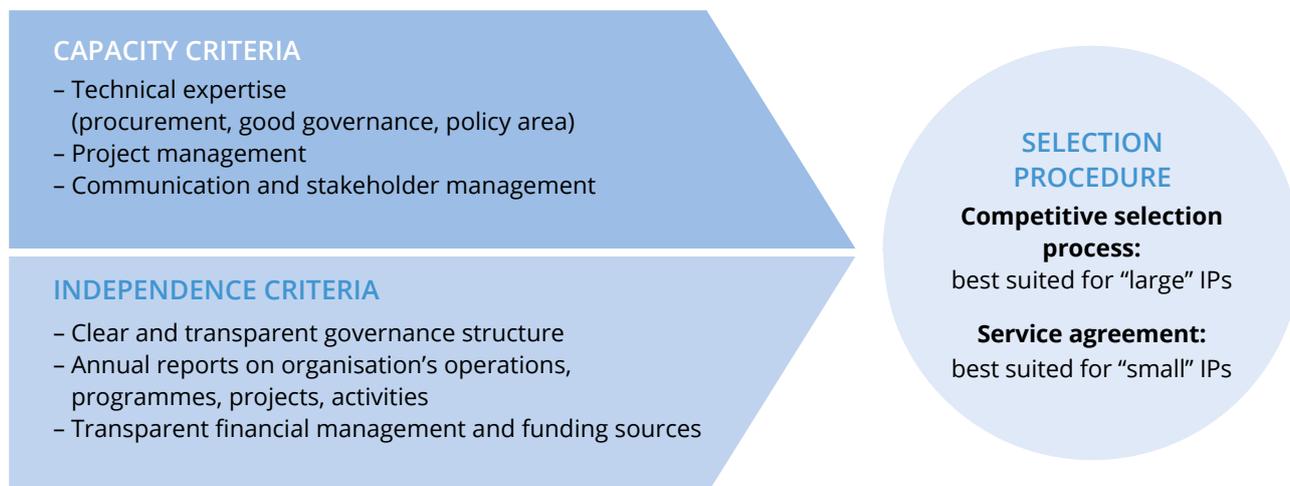
SELECTION OF THE CIVIL SOCIETY MONITOR

The civil society monitor or facilitator is entrusted with important tasks and responsibilities in the IP. It will be granted access to information and communications about the procurement project, including those not normally available to the public, so it can observe the behaviour of public and private entities and verify that decisions are made in the public interest. As such, the way in which civil society participants are identified and selected is of crucial importance.

There is no standard process for identifying and selecting civil society monitors. This will largely depend on the country context and the circumstances in which an IP project takes place. CSOs may come forward voluntarily, either individually or as a group, as has been the case in most IPs, or the monitor can be identified based on information gathered during the contracting project selection, and approached by proponents to take part in a formal process, such as an “open call” or competitive public selection.

There are certain capacity and independence criteria that CSOs must fulfil to adequately play the role of monitor or facilitator, irrespective of whether they are the main IP initiators or are selected in the initiation process (see opposite).

IDENTIFICATION AND SELECTION OF CIVIL SOCIETY MONITOR



If fulfilled, the above criteria should provide a solid basis for objective and fair oversight of public procurement projects. Regardless of the procedure employed, it is crucial that practitioners consider aspects of transparency and accountability when setting up an IP, and that they are able to explain why a CSO was chosen and how the decision was taken. There must also be transparency and accountability in the process of assembling a monitoring team, as described in the following section.

Systematic, institutionalised or cross-national IP application requires a large availability of skilled civil society monitors, active in different policy areas. To this purpose, governments or IP proponents could consider setting up mechanisms to accredit suitable organisations and experts, similar to that in Mexico.⁶⁵ These should aim to streamline the selection process in a transparent manner and should be complemented by broader training programmes to build civil society's knowledge and skills in monitoring procurement in a specific context.

MONITORING TEAM COMPOSITION

As early as possible after a CSO has been selected to act as monitor, it will have to assemble a monitoring team that can adequately oversee regulatory compliance in the contracting project and the IP, and provide public officials and firms with technical support in fulfilling their commitments. Although in simple or small-scale procurements the technical monitoring may be carried out by the CSO's own staff, in practice, it is unlikely that a single organisation will have all the necessary knowledge and capacity for this task.

In such cases, the CSO can recruit external technical experts, including consultants from private organisations, to complement its capacity, based on the size and characteristics of the contracting project. It could also outsource some of the more technical tasks, so that it can focus on other aspects, such as communication, data disclosure and citizen engagement. In such situations, it is important to establish clear channels of interaction and communication between the experts and the CSO, to ensure accountability towards other IP participants and stakeholders.

In other circumstances, it may be desirable to have a collective monitoring mechanism, in which the CSO acts in partnership with other organisations, such as NGOs in specific thematic areas, professional associations, business associations or trade unions. This could add value to the IP, but may also involve operational and governance difficulties associated with the need for more resources and to take decisions collectively, possibly making the task more complex than if performed by a single entity.

Regardless of the final composition, the monitoring team should be made up of highly respected people of unquestioned independence and integrity, who possess or have easy access to professional expertise. It is of utmost importance for the credibility of the IP that every member of the monitoring team is not linked to any interested party in the public procurement procedure. To address this issue, the IP must establish clear provisions to avoid or properly manage conflicts of interest in the people involved in the monitoring (see page 46).

Integrity Pact governance arrangements

As a conclusion of the IP initiation phase, it is good practice for participants to sign a Memorandum of Cooperation (MoC), in which they commit to jointly develop and apply an IP to one or more procurement projects, and to pursue specific objectives of good governance and integrity. The MoC typically also includes details regarding governance arrangements, activities and roles in the IP preparation, as well as provisions for the CSO to have access to background project information that may be needed at this stage.

In 2014, the Honduran Ministry of Health set up a committee with Transparency International's Chapter in Honduras and the bank operating a trust fund newly created to oversee the purchase and distribution of medicines for state-run hospitals – a process which until then had been tainted by systemic corruption and collusion. The committee's task was to design and introduce an IP to monitor the new tendering system for pharmaceutical procurement. As well as advising on the adaptation of the IP, our Chapter drafted a concept and strategy paper and approached industry representatives to secure their support.⁶⁶

Once all the conditions for IP initiation are in place, implementers should define the necessary management and governance arrangements for the IP. In particular, they should specify the lead implementer or facilitator – the organisation or individuals that coordinate IP implementation – and who they are going to report to. While it is presumed that a CSO will play the role of facilitator (see previous section), in some cases it may also share some administrative duties with contracting authorities, or outsource them to specialists.

For large IP projects, proponents may also consider establishing specific governance bodies, such as steering or advisory committees, or ethical committees with representatives from the various entities backing the IP. Such bodies can have different functions, such as ensuring that the initiative is being implemented according to plan, resolving any issues or disputes among participants, and providing technical advice.⁶⁷ The decision to establish such committees should be taken with consideration of the additional administrative burden involved.

2 INTEGRITY PACT PREPARATION AND SIGNATURE

Integrity Pact form

INTEGRITY PACT PARTIES AND CONTENT

As a collective action initiative, the Integrity Pact is centred around a public agreement between three main parties: the contracting authority in charge of the procurement project, the bidders or contractors, and the civil society monitor. The contracting authority and the bidders or contractors are considered the primary IP participants, as they are directly impacted by the procurement project and involved in the implementation of concrete commitments and activities, whose adequate fulfilment is overseen by the civil society monitor.

Depending on the scope and ambition of the initiative, secondary participants – such as parent institutions, project financiers, oversight authorities, business associations and affected communities – may also counter-sign the IP. While this may help formalise engagement from these stakeholders, the more parties an IP has, the more complicated and less efficient it will ultimately be. It is recommended that implementers instead engage these stakeholders through separate declarations of support or regular IP communication and engagement activities.

The public agreement can be formalised through different documents and structured in different ways (see next section), with the specifics varying depending on the circumstances and goals of the initiative, national legislation, the type of procurement project and expected participants. Regardless of context-specific considerations, the public agreement should comprise the following elements:

A public integrity pledge applicable to contracting authorities – baseline commitments include regulatory

compliance, disclosure of information on the procurement, payments to intermediaries, interest and asset declarations by public officials, and the establishment of an internal whistleblowing system. Higher-level commitments may include the adoption and implementation of open contracting data standards, internal control systems and activities to engage the private sector and affected communities.

A corporate integrity pledge applicable to bidders – baseline commitments include regulatory compliance; disclosure of anti-corruption programmes, beneficial ownership, payments to intermediaries and political engagement activities, and requirements to have specific integrity provisions in place. Higher-level commitments may include corporate and ESG reporting, adoption or certification of business integrity standards, measures to ensure integrity across sub-contractors and supply chains, and inclusive contract execution.

A civil society monitoring agreement – This refers to the terms of engagement of the civil society monitor. It includes duties associated with the review of the contracting procedure, such as the scope and coverage of monitoring, and reporting to the public, and compliance with IP commitments by the parties. It also covers the monitor's rights of access to information, the clarification and reporting of irregularities, and withdrawal from monitoring; provisions to manage internal conflicts of interest, and additional activities to enhance transparency and social accountability.

Dispute resolution mechanisms, sanctions and incentives – The IP can include ad hoc mechanisms to resolve disputes among parties, related to the contracting project or the IP itself. In some cases, the IP may also specify sanctions for violations of applicable laws and regulations on public procurement

and anti-corruption, as well as incentives to foster meaningful compliance with baseline and higher-level commitments – for example, preferences in procurement award, whitelists, and awards or recognition for integrity efforts.

When discussing the IP content, participants should map and analyse the country's legal and policy framework, noting possible enabling factors and constraints to the proposed commitments and activities. They should also identify what could be achieved either by correctly enforcing existing regulations or including specific requirements, voluntary obligations or activities. This incremental approach will help ensure that the IP is not in conflict with existing regulations, and that it complements and leverages them to ensure probity and integrity.

As part of this process, participants should also benchmark existing provisions to international legal instruments, such as the UN Convention Against Corruption (UNCAC), as well as standards and best practices proposed by international organisations and NGOs such as the United Nations Office on Drugs and Crime, the OECD, Transparency International and the Open Contracting Partnership. This will help identify potential opportunities to propose legal requirements that would benefit all procurements, but are not yet incorporated into law.

INTEGRITY PACT DOCUMENTS

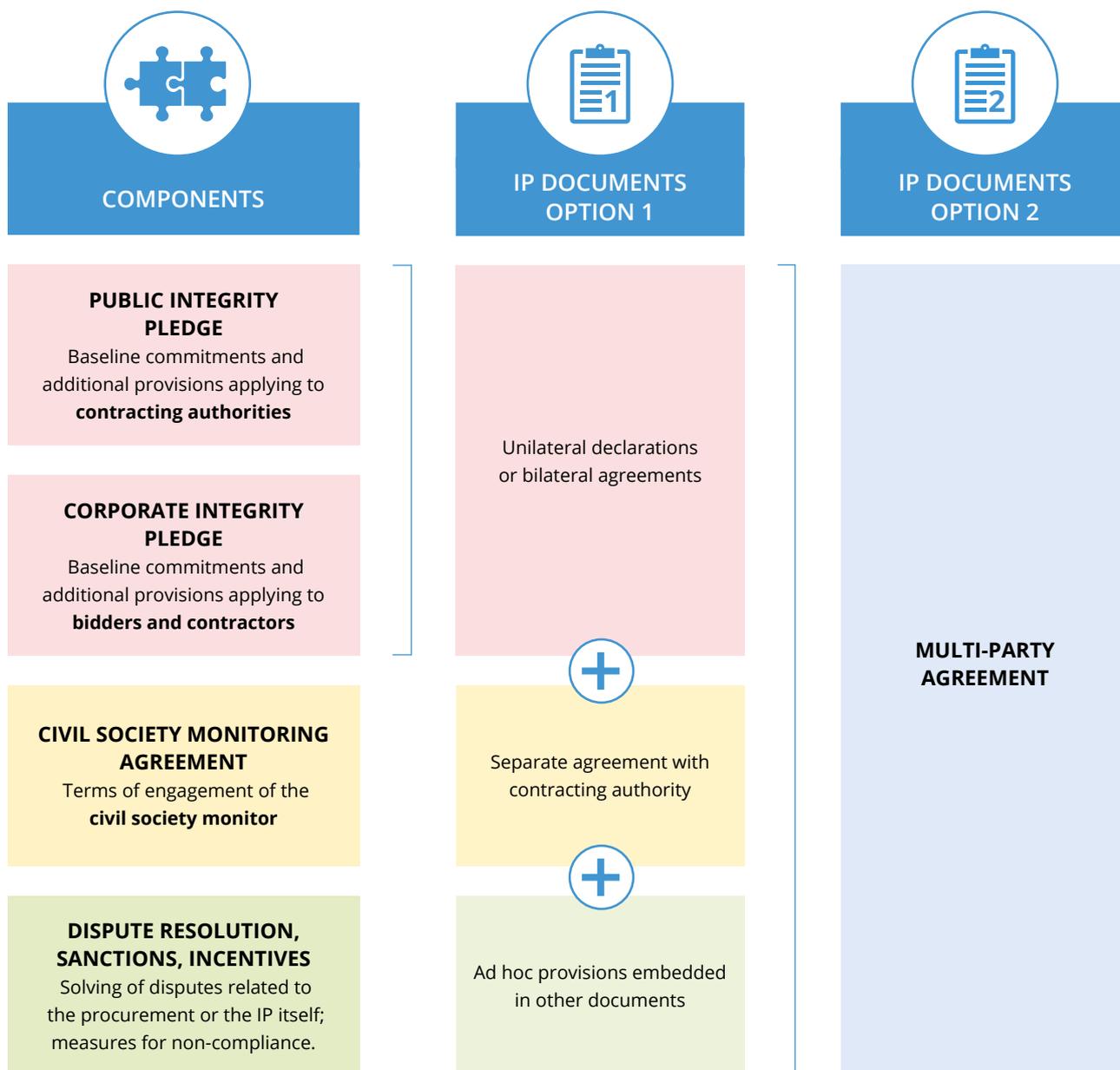
Different types of documents can be used to formalise the IP content. Implementers should decide which combination is most suitable, based on the type and length of the contracting project, the type of procurement procedures, and the country's legal and policy framework. The country pages in the global IP compendium on Transparency International's website provide links to several templates and documents used in previous IPs.⁶⁸ Experience indicates two main options:

1 Separate agreements – Transparency and integrity pledges by contracting authorities and bidders or contractors are formalised through bilateral agreements or separate unilateral declarations or pledges, with additional provisions recognising the role of the independent monitor. Provisions to solve disputes, and for sanctions and incentives are also included, and a separate monitoring agreement is signed by the contracting authority and the CSO.

2 A multi-party agreement – All the elements of the IP are contained in a single, multi-party agreement, bringing together contracting authorities, CSOs and bidders or contractors. To ensure flexibility in the preparation of the corporate transparency and integrity pledge, the agreement should allow for the possibility of accession by suppliers on submitting their bid or expression of interest (see next section).

A multi-party agreement is recommended over separate agreements, as it provides notable flexibility and a more explicit mutual recognition of shared obligations. It also better embodies the multi-stakeholder collective approach of IPs by treating all signatories equally. Whatever form an IP takes, it should ideally be a legally binding and enforceable document, governed by the country's contract, procurement or administrative law, and should be supported by formal declarations underlining participants' goals of strengthening transparency and integrity.

INTEGRITY PACT DOCUMENTS OPTIONS

**PREPARING AND SIGNING THE INTEGRITY PACT**

The preparation of the IP should ideally be a collaborative endeavour between the main actors expected to be involved in the initiative. These primarily include the contracting authorities, business representatives and the civil society monitor, but depending on time and resources, might also include other public institutions, affected communities, donors and project financiers. Engagement with these stakeholders will help to inform the goals and interventions of the initiative, facilitating its success, and will also help build trust and legitimacy among participants.

The timing of IP preparation and signature by the different parties depends on the type of procurement project and related contracting procedures. In general, IP documents should be prepared during the procurement planning phase, ideally in connection with formal public and market consultations to allow potential bidders, affected communities and other relevant stakeholders to provide inputs to their content. If formal consultation processes are not deemed deep or sufficient enough, the IP initiative could fill the gap with ad hoc ones.

The IP should be signed by the contracting authority and the civil society monitor as early as possible in the process, to allow for the beginning of monitoring activities, and ideally no later than the pre-tendering phase, to ensure that the preparation of tender documents is consistent with the findings of market and public consultations. Potential bidders should be notified or made aware of the IP before the tender launch – for example, through a Prior Information Notice – so they can adequately prepare to fulfil the requirements or commitments it may entail.

The IP should be included in tender documentation and be signed by bidders on submission of their bid, or of a prior expression of interest in the tender – for example, in cases of restricted procedure. Signature of the IP by bidders should be mandatory to participate in the tender, although in some countries this might not be allowed by the law and signature will have to be voluntary (see page 43). By signing the IP, bidders agree that for the winners, the provisions remain in force until contract execution is complete.

WHO SIGNS THE IP?

Contracting authority – The IP should be signed by the head or legal representative of the public institution in charge of carrying out the contracting project and by the public officials responsible for the foreseen procurement procedures. Depending on the circumstances, type of project and institutional framework, IP implementers may also wish or need to seek official prior permission or support from a parent authority for the contracting authority to sign and comply with IP obligations.

Bidders and contractors – The IP should be signed by company officials in charge of preparing a bid or managing the contract once awarded. In some cases, the IP should be signed by the companies' CEOs or other C-suite officials, in particular the Chief Compliance Officer, to signal high-level commitment and support. When sub-contractors are expected to carry out a substantial amount of work, they should also become signatories of the IP (see page 42).

Civil society monitor – The IP should be signed by senior officials, such as the executive director or the chairman of the board, of the CSO leading or coordinating the independent monitoring mechanism, as well as by the person in charge of managing IP activities. Where monitoring is carried out by independent experts on behalf of the CSO, they must also sign the IP.

Depending on the type of contracting project and ambition of the initiative, the process of adapting IP documents to the legal context and having them signed might be time consuming and require intense negotiations among multiple stakeholders. As such, it should be started as early as possible and supported by legal counsel to ensure the language in the documents is aligned with applicable legislation and rules, setting out essential terms in a complete and clear manner. The documents must also use available legal tools that make the interpretation and enforcement of the IP as simple and straightforward as possible.

In contexts with no previous IP experience, the average timeframe for the preparation and signature of an IP has ranged from approximately six months to a year. However, such a timeframe is likely to be considerably reduced in further applications of the IP, as new implementers can build on existing experience. For example, in the EU IP project, preparation of the IP took less than a month in countries with previous IP experience, such as Bulgaria and Hungary. In those implementing the IP for the first time, it took up to a year.⁶⁹

It is useful to think about the types of documents used and their specific content as "IP models", which can be unique and adapted or tailored to a specific type of contracting project, contracting authority, sector or country context. Once an IP model is established, it becomes a foundational reference for future adaptations, substantially reducing the time and costs linked with IP design and preparation. This is especially beneficial for systematic IP implementations, involving simultaneous or sequential deployment of multiple IPs.

For example, governments or development partners could create standardised IP models tailored to legislation or fiduciary principles, which can be tweaked according to the specific public entity or type of procurement project. This will allow them to increase the legitimacy of the IP among contracting authorities, solve potential legal issues linked to the mandatory signature of IPs by bidders or access to information by

civil society monitors (see page 45), and include specific sanctions and incentives linked to compliance from participants in the initiative (see pages 50-51).

Components of the Integrity Pact

PUBLIC INTEGRITY PLEDGE

Under the IP, contracting authorities must commit to several minimum requirements and voluntary obligations aimed at strengthening public integrity, corruption prevention, transparency, access to information, social accountability and stakeholder engagement in the management of the contracting project. Depending on the country context and the objectives of the IP initiative, stakeholders may want to put more emphasis either on compliance with existing laws and regulations, or on the introduction of best practices to fill gaps and loopholes.

When drafting the public integrity pledge, implementers should reach out to and gather input from other relevant public-sector stakeholders, such as the parent institution of the contracting authority, supreme audit institutions and especially oversight agencies for anti-corruption, procurement and competition. In the case of infrastructure projects, implementers may also want to reach out to regional or local planning departments, regulatory agencies such as environmental commissions, and utility regulators.

Baseline commitments

Regulatory compliance – The IP must contain a general commitment by the contracting authority to adequately comply with applicable laws and regulations; refrain from bribery, collusion, conflict of interest and other forms of corruption, and report potential violations. To avoid any ambiguity and to clarify parties' obligations, the IP should explicitly list, mention and provide precise references to all laws and regulations that public officials are bound to follow. Accordingly, the IP should also define the specific types of corrupt, illicit or fraudulent behaviour prohibited.

Transparency and access to information – The contracting authority must commit to proactively publish information, data and documents on the procurement project in a user-friendly and timely manner throughout its stages. It must also commit to provide the monitor with access to potentially confidential information that might be needed to carry out effective review of

the procurement process, subject to specific arrangements for exchange and disclosure, defined in the civil society monitoring agreement (see page 45).

On the next page is a non-exhaustive list of information units and documents that are relevant to an IP, along with their presumed availability.⁷⁰ It must be noted that the information and documents considered public, confidential or sensitive vary among countries, depending on contextual interpretations of transparency and right to information laws. In some cases, authorities may also decide to publish sensitive information in a redacted format to allow for scrutiny by the public. See the Open Contracting Partnership's report on the topic for more information.⁷¹

PRESUMED AVAILABILITY OF PROCUREMENT DATA

PRESUMED AVAILABILITY (NON-EXHAUSTIVE)

Stage	PUBLIC	CONFIDENTIAL
Planning	Needs assessments, feasibility studies, project plan, records of public hearings and public consultations	Market studies, procurement project budget estimates
Pre-tendering	Draft technical specifications (for public consultation)	Procedure timeline, draft final technical specifications (before tender launch), draft evaluation criteria, draft contract
Tendering	Tender notice, technical specifications, evaluation criteria, requests for clarification, clarifications, amendments to tender documentation, debarments	Procurement method rationale
Pre-award		Bids, identity and legal documents of bidders, assessment of bids, evaluation committee's minutes
Post-award	List of bidders and their prices, list of bids that were rejected and grounds for such decision, major elements of evaluation process, contract award notice, signed contract	Complaints and appeals
Implementation	Progress reports, contract amendments, payments	

Most of the information and documents listed above must normally be published by law, either on a national or local procurement portal, or at least on the contracting authority's webpage. However, very few countries worldwide have a state-of-the-art procurement information disclosure system underpinned by high-quality open data.⁷² In many cases, such portals or channels might have narrow disclosure requirements, limited accessibility features, low-quality data, or lax verification enforcements. In other cases, they might not exist at all.

In such circumstances, the contracting authority should work with the civil society monitor to ensure the highest degree possible of transparency and access to information on the contracting project, with an emphasis on technological innovation and user-friendliness,

based on the resources at their disposal (see pages 47-48). This is key to enable greater public scrutiny by the media, firms and other stakeholders, and enhance accountability towards affected communities and participation by citizens.

Payments to intermediaries – The contracting authority must commit to disclose any payment given to intermediaries or other actors, such as private consultants, engaged to support the preparation of the bidding procedure. This should include the amounts spent for the consultancy, as well as the name of the organisations or individuals who received the payment and performed the service.

Conflict of interest and financial disclosure – Public officials involved in the contracting project must com-

mit to promptly declare to the monitor or a relevant oversight authority any apparent or actual conflict of interest they may have in connection with the contract – for example, holding a position in a potential supplier company. They should also commit to disclose their private interests and assets, and ideally those of their family members, as well as any gifts received by private-sector representatives that may have a bearing on the contract.

In many cases, public officials may already be required to periodically submit information on private interests, assets and gifts, which is typically disclosed through dedicated registers. However, national regulations over which public officials must make declarations, the type and scope of information collected and the degree of public access may vary widely. When the information available in such registers is reduced or limited, the IP can include provisions for the proactive disclosure of more comprehensive information.

PREVENT PROGRAMME (ROMANIA)

Romania's Prevent programme is an integrated IT system that enables the National Integrity Agency to identify potential conflicts of interest before public contracts are awarded, by automatically detecting whether bidders are related or otherwise connected to public officials from a contracting authority.⁷³ The system uses relevant information gathered through "integrity forms" to be completed by:

- **Public officials in the evaluation commission** – who must provide information on the contract type, estimated value and source of funding, as well as personal identification, position in the contracting authority, membership of NGOs or associations, and previous employment.
- **Bidders** – who must provide information on the identity of company officers, shareholders and management.

Once the information is collected, the system produces a risk rating for the tender, and agency staff perform data analysis, conduct cross-checks and generate relational maps. If applicable, they issue red flags that the system automatically translates into an integrity warning for the head of the contracting authority.

Whistleblowing – The contracting authority must commit to establishing a whistleblowing channel for employees and any other person who acquires relevant information to report potential corruption and wrongdoing. This should be accompanied by guidelines for its use, mechanisms to provide advice and support, and adequate measures to ensure protection of employees against retaliation. Transparency International's principles for internal whistleblowing systems provide comprehensive guidance on this aspect (see below).

TRANSPARENCY INTERNATIONAL'S PRINCIPLES FOR INTERNAL WHISTLEBLOWING SYSTEMS

Transparency International has developed best practice principles for internal whistleblowing systems,⁷⁶ which all public and most private organisations should have in place:

Scope – Internal whistleblowing systems should invite reports from any person who might acquire information regarding any suspected wrongdoing committed in, by or for the organisation, and protect such persons from retaliation.

Roles and responsibilities – The organisation's top leadership should set a clear "tone from the top" in support of speaking up about wrongdoing, and designate an impartial person or department responsible for the operations of the whistleblowing system.

Information and communication – Information about the organisation's internal whistleblowing system and its implementation should be highly visible and accessible via a wide range of media and channels.

Procedures – The system should include multiple channels that are safe and enable reporting in writing and orally. It should also ensure diligent follow-up of reports

received, including keeping the whistleblower and other interested stakeholders informed throughout the process, and maintaining records of the procedure.

Support and protection for whistleblowers – Organisations should protect the identity of (anonymous) whistleblowers and prohibit any form of retaliation against them. Internal whistleblowing systems should also include mechanisms to receive any report of retaliation and to ensure full reparation for potential harm to health and career.

Protection of the person concerned – Organisations should protect the identity and rights of the person(s) concerned (those accused of wrongdoing), and provide for effective, proportionate and dissuasive sanctions for individuals knowingly reporting false information.

Monitoring and review – The internal whistleblowing system should be formally reviewed at least annually, and revisions made accordingly.

Higher-level commitments

Publication of open and structured data – The contracting authority could commit to publish open and structured data on the whole lifecycle of its public procurement procedures, to allow for better public scrutiny and interoperability with other government databases. If the central government already mandates contracting authorities to publish open data, the emphasis of the commitment may be on ensuring data quality and verification. If not, the contracting authority may adopt such a disclosure policy on its own, thus signalling its commitment to transparency and innovation.

Governments and contracting authorities may establish their own framework for the publication of open data, or adopt widely known international standards such as the Open Contracting Partnership's Open Contracting Data Standard (OCDS)⁷⁴ and the Infrastructure Transparency Initiative's Infrastructure Data Standard⁷⁵ (see

below). Within the IP, the civil society monitor may provide technical assistance in the publication of data and in the establishment of user-friendly online platforms, providing better opportunities for monitoring and engagement (see pages 47-48).

INTERNATIONAL STANDARDS FOR THE PUBLICATION OF OPEN CONTRACTING DATA

The Open Contracting Partnership's (OCP) Open Contracting Data Standard (OCDS) is the most popular framework for the publication and sharing of open data related to government procurement. As a core element, the OCDS provides a detailed schema for structuring and representing data about procurement processes across each stage of their lifecycle. The OCDS is adaptable to different contexts, making it applicable to various types of procurement contracts, from infrastructure to purchase of goods and services. So far, it has been adopted by over 50 publishers across different countries and government levels.⁷⁷

Similar to the OCDS, the Infrastructure Data Standard (IDS) from the Infrastructure Transparency Initiative (CoST) provides a structured framework for the disclosure of data related to public infrastructure projects. It outlines 40 key data points across the infrastructure project cycle, spanning four main stages – identification, preparation, implementation and completion. CoST and OCP have also developed the Open Contracting for Infrastructure Data Standard (OC4IDS),⁷⁸ which combines contract-level disclosures using the OCDS and project-level disclosures using the IDS, emphasising the link between public contracts and project outcomes.

Adoption of international standards on public integrity

– The contracting authority could commit to review its internal corruption prevention and detection practices and fill identified gaps by aligning them to international standards and best practices to enhance public integrity in procurement. Useful resources include the Committee of Sponsoring Organisations of the Treadway Commission (COSO) *Framework on Internal Control* (see below),⁷⁹ the OECD *Framework for Integrity in Public Investment*,⁸⁰ and the UN Office on Drugs and Crime (UNODC) *Guidebook on anti-corruption in public procurement*.⁸¹

As part of such institutional reform efforts, the contracting authority could commit to develop comprehensive codes of ethics, including, for example, the mission and values of the organisation, standards of behaviour and sanctions for integrity breaches, as well as internal anti-corruption policies and mechanisms, such as corruption risk assessments, internal control procedures,

and guidelines to address conflicts of interest. These could be complemented by training activities for public officials involved, and the civil society monitor could provide technical assistance (see pages 46-47).

THE COSO INTERNAL CONTROL INTEGRATED FRAMEWORK

The Treadway Commission is an initiative to help organisations with assessing and enhancing their internal control function. In 2013, its Committee of Sponsoring Organisations (COSO) produced an Internal Control Integrated Framework, largely recognised as the leading global standard on internal control. It comprises 17 principles, grouped under five components, that put internal control within a broader context of good governance:

1. **Control environment** – Establishing a set of standards and structures that provide the foundation for an organisation's internal control and its commitment to integrity and ethical values (i.e. "tone from the top").
2. **Risk assessment** – Performing risk analysis for fraud and identifying methods to reduce the impact of these risks on organisational objectives.
3. **Control activities** – Establishing policies and structures such as reporting lines, segregation of duties and control over technology, to mitigate risks to acceptable levels.
4. **Information and communication** – Ensuring that management can generate accurate and reliable information, both internally and externally, by drawing on high-quality sources.
5. **Monitoring activities** – Carrying out ongoing or periodic evaluation, based on clearly defined policies and procedures, to verify the quality of integral internal control.

Engagement with the private sector – If existing provisions are not deemed sufficient, the contracting authority could commit to implement mechanisms to engage the procurement market, in order to develop more realistic and effective tender specifications, provide suppliers with a better understanding of its needs,

and maximise participation in the tender procedure. Such mechanisms could include direct consultations with panels of suppliers, or broader events such as “supplier days”, and could also be used to notify bidders about the IP (see below).

Social accountability and citizen engagement – If existing procedures are insufficient, the contracting authority could commit to implement ad hoc mechanisms to engage in regular and open dialogue with project beneficiaries and affected communities, to ensure their inputs and concerns are duly considered in decision-making processes. These mechanisms could include enhanced access to information, public hearings and on-site visits, and could be facilitated by the CSO monitor within the framework of the IP (see pages 48-49).

CORPORATE INTEGRITY PLEDGE

The IP aims to foster a culture of transparency, integrity and fair competition among bidders and contractors

participating in the procurement project. As such, its content should include a number of baseline commitments and minimum requirements on corporate disclosure and anti-corruption compliance, to be fulfilled on submitting a bid. Ideally, it should also include more ambitious undertakings for the winning bidder. There are many possible combinations, and depending on the circumstances, the obligations can be tailored to the specific type of contracting project and size of firms.

It is strongly recommended that IP implementers reach out to business actors such as potential bidders, business associations and private investors as early as possible, ideally in connection with market consultations, to gather their input regarding commitments and activities in the corporate integrity pledge (see below). This will foster their sense of ownership of the initiative and increase the chances of support for the IP through a high level of buy-in. Conversely, if firms are treated like passive actors in the process, this may undermine the chances of an impactful IP.

GATHERING PRIVATE-SECTOR INPUT FOR THE INTEGRITY PACT

To obtain private-sector input to the IP, the facilitators could approach potential bidders as a group through an open invitation to a public event related to the contracting project, or could consult them in the framework of existing dialogue or business engagement mechanisms foreseen in the law, such as market consultations. Implementers may also involve potential bidders indirectly through national and international business associations or industry groups, as these actors may already have mandatory or voluntary transparency and integrity standards for their members.

Convening private meetings or engaging with diverse companies, particularly competitors, could potentially raise legitimate anti-trust or competition apprehensions. To mitigate this risk, participants could be required to enter into a confidentiality agreement to refrain from discussing market dynamics, pricing data and any other information of a commercially sensitive nature. Other mitigation measures include involvement of legal counsel, independent facilitation, transparency of proceedings, and guidelines to manage conflicts of interest.⁸²

While private-sector engagement in the preparation of the IP is highly desirable, in some circumstances implementers may also decide that its content should be predetermined and not subject to negotiation. For example, there might not be enough time to carry out such a process, or there might be a risk that negotiation with multiple parties would reduce the ambition of the commitments. There might also be concerns regarding the level playing field, as negotiating powers and capacities among bidders may be uneven.

In such cases, the IP model that is applied must be one that has already included, at some point, comprehensive private-sector input, spanning a diverse array of industries and backgrounds. Implementers may seek input from existing industry collective action initiatives to promote transparency and integrity in the country.⁸³ The IP can also offer inputs to such initiatives, by offering capacity-building opportunities for private-sector actors regarding the benefits of the Integrity Pact and how it aligns with broader business integrity principles.

Baseline commitments

Regulatory compliance – The IP should contain a general pledge by bidders to comply with applicable laws; refrain from bribery, collusion and other forms of corruption, and report wrongdoing when it occurs. To avoid any ambiguity, the IP documents should define the specific types of corrupt behaviour prohibited, ideally with precise references to national or international legislation and other obligations – for example, from multilateral development banks – that apply to the projects. This is particularly important when firms from other countries are expected to participate.

The IP should also contain a statement by each bidder that it has not been involved in corrupt behaviour in the period prior to the bid (this can be 3-5 years, for example). If it had been involved, the bidder is required to disclose the case and to show what it has done to address the issue and correct the problem and its causes. While such a statement is obviously not a guarantee that companies have not committed corruption in the past, it may become a valid piece of evidence if they are eventually found to be involved in wrongdoing.

In addition to regulatory compliance and anti-corruption statements, the IP should contain a requirement for bidders to proactively disclose the following information and documents as part of the bid documentation:

- **Internal compliance policies and programmes** – A copy of relevant information and links to anti-corruption policies and programmes.
- **Beneficial ownership** – The natural persons who ultimately own or control the company bidding for the contract, as well as the chain through which control is exercised.
- **Payments to intermediaries** – All payments to potential intermediaries engaged in connection with the contract, including names and corresponding sums.
- **Political engagement activities** – List of lobbying meetings, political donations and gifts provided to public officials in the period prior to the bid, specified according to the lifecycle of the monitored procurement process.

Companies in a country may already be required to disclose information on beneficial owners, donations to political actors and lobbying meetings, as it is key to identify potential conflicts of interests and undue influence in public procurement and other government activities. This information is typically collected in

dedicated registers, though in some cases it may not be swiftly accessible, comprehensive or easy to explore for the purposes of the IP. In such cases, the corporate integrity pledge can be used to invite bidders to disclose this information voluntarily.

Anti-corruption measures – The IP could include a requirement for bidders to have specific elements of anti-corruption measures in place by the time they submit the bid, or to adopt, implement or strengthen them throughout contract execution if they win the bid. These could include codes of ethics, internal controls and recordkeeping, risk management procedures, whistleblowing channels, communications, training and awareness-raising for employees, and regular monitoring and improvement of anti-corruption programmes.

INTERNATIONAL GUIDELINES FOR CORPORATE ANTI-CORRUPTION ETHICS AND COMPLIANCE

The OECD, the World Bank and UNODC have published comprehensive guidelines for businesses to implement effective anti-corruption measures within their organisations, in line with international obligations.⁸⁴ Key elements and topics include:

Leadership and culture – strong support and commitment from top-level officials to lead by example and promote ethical behaviour.

Risk assessment – mechanisms for the identification and assessment of corruption risks specific to the organisation, its operations and the environments in which it operates.

Policies and procedures – codes of ethics and related guidelines on gifts, hospitality, conflicts of interest, political engagement and reporting mechanisms.

Monitoring and reporting mechanisms – compliance with anti-corruption policies, including internal audits, whistleblowing channels and reporting procedures for suspected wrongdoing.

Training and awareness – regular training sessions and awareness programmes to educate employees about the organisation's anti-corruption policies, procedures and results.

The scope and ambition of requirements and commitments on corporate integrity will largely depend on the type of contracting project and the size of companies involved. While large companies are likely to already have ambitious anti-corruption programmes in place, small and medium-sized enterprises (SMEs) might not have enough time, resources or capacity to implement them in the course of the IP. In such cases, implementers could consider providing such firms with technical assistance or training within the framework of the IP (see pages 46-47).

Higher-level commitments and activities

Structured corporate integrity reporting – The IP could include a commitment by bidders or contractors to publish relevant corporate integrity data and information on their websites, in a structured manner. Such publication could follow Transparency International's methodology for Transparency in Corporate Reporting (TRAC), which includes anti-corruption policies, corporate ownership and control, financial transparency, and stakeholder engagement and reporting.⁸⁵

Environmental, Social and Governance (ESG) reporting – The IP could include a commitment or requirement for bidders to report on their ESG performance according to voluntary standards – for example, from the Global Reporting Initiative (see below), the Sustainability Accounting Standards Board, and the UN Global Compact. In the context of the IP, such reporting should be focused on governance, which encompasses anti-corruption provisions, but on a case-by-case basis could also include environmental and social performance.

THE GLOBAL REPORTING INITIATIVE STANDARDS 205 AND 206

The Global Reporting Initiative (GRI) is an independent international organisation that provides a standardised framework for businesses to report on their ESG impacts.⁸⁶ Among its many reporting standards, available on its website, two are particularly important when it comes to the IP:

- **GRI 205 (Anti-corruption)** provides guidelines for organisations to disclose information and performance indicators on their efforts to prevent and address corruption within their operations.⁸⁷ It covers aspects such as organisational

anti-corruption policies, governance structure, risk assessment, training and awareness, whistleblowing mechanisms, due diligence processes, incident reporting and response, and stakeholder engagement.

- **GRI 206 (Anti-competitive behaviour)** addresses how organisations manage and report anti-competitive practices, such as price fixing, market sharing or other unfair practices.⁸⁸ It requires organisations to disclose any pending or complete legal actions related to anti-competitive behaviour, and the outcomes of such actions.

Third-party certification of anti-corruption compliance programmes – The IP could require bidders to present or pursue certification or assurance by an independent assessor, other than the civil society monitor, on the adequacy of their anti-corruption compliance programmes. Transparency International's Assurance Framework for Corporate Anti-Bribery Programmes provides guidance on this. If there are any concerns over the capacity of potential bidders – such as SMEs – to fulfil this commitment, it could be amended to apply only to the winning bidder.⁸⁹

Sub-contractors – When sub-contractors are expected to carry out a significant proportion of the contract execution, the IP could include provisions for the successful bidder to manage corruption risks linked to these actors. This could be done by requiring sub-contractors to sign the IP and implement relevant commitments, or to be subject to specific contractual, reporting and monitoring conditions.

Supply chain integrity – The IP could include commitments for the winning bidder to foster integrity in its supply chains. Specific measures could include the strengthening of supplier due diligence checks and audits, the establishment of codes of conduct, risk assessment procedures, certifications and training. While the IP has a direct focus on integrity, in some cases such commitments could also aim to promote specific environmental standards, labour practices, and diversity and inclusion policies.

Inclusive contract execution – The IP could include commitments for the winning bidder to engage with affected communities throughout contract execution – for example, through meetings or on-site visits to the project location. In some cases, these stakeholders

could also be engaged in consultation regarding the company's ESG goals and strategies, including impact assessments and social development initiatives. Such commitments would underscore a comprehensive approach to sustainable and ethically sound contract execution.

MANDATORY OR VOLUNTARY SIGNATURE BY BIDDERS

A critical decision when preparing the IP is whether its signature by bidders should be mandatory or voluntary. In general, we recommend that implementers make IP signature mandatory as a condition for participating in the tender, as this helps to ensure that all firms play by the same rules and meet the same requirements. In this case, IP facilitators must inform potential bidders about the IP and consult them on commitments well in advance, to address potential concerns – for example, around an additional administrative burden or lack of support.

However, in some countries, legal restrictions might not allow mandatory IP signature, or implementers might decide on voluntary signature to better indicate genuine commitment. In such situations, there is a risk that not all bidders will sign, and that the IP will not provide for a level playing field. Implementers can devise incentives to overcome this – for example, “whitelists” recording who has signed the IP and fulfilled certain commitments, which can be used as a reference for future contracts (see below).

In Bulgaria's IP model, it is not mandatory for bidders to sign the public agreement, but the model includes a positive incentive for them to do so, in the form of a “whitelist”. This includes the names of all bidders and contractors, and specifies those who have and have not signed the IP, as well as those who have breached regulations or not complied with IP provisions. Contracting authorities can publish and promote the whitelist on their website and exchange information with other public institutions on request. To minimise this administrative process, Transparency International Bulgaria, as a monitor and facilitator, keeps a centralised whitelist on its website.⁹⁰

CIVIL SOCIETY MONITORING AGREEMENT

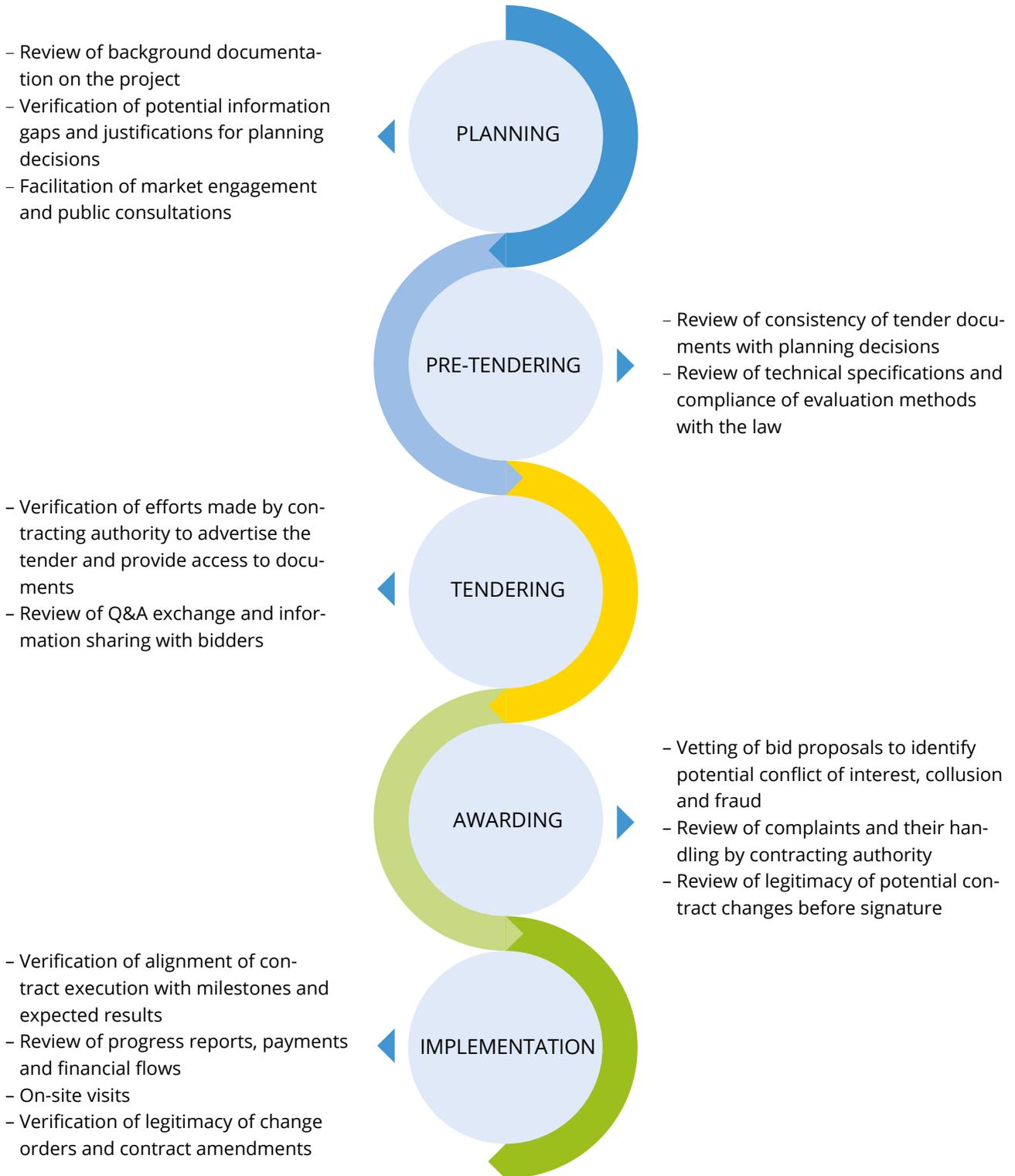
The independent civil society monitoring mechanism plays a central role in the Integrity Pact, reviewing regulatory compliance of the procurement project and related decision-making processes. It also monitors and facilitates implementation of commitments and activities, and opens up the whole process to the public. It is essential that the monitoring agreement included in the IP is comprehensive and addresses all necessary provisions to ensure effective and objective monitoring, adding value to the project as a whole.

REVIEW OF CONTRACTING PROCEDURES

In the review of contracting procedures, the monitor benchmarks processes against best practices in ensuring good governance and integrity. When gaps or potential are detected, the monitor issues recommendations to contracting authorities and other actors as appropriate, to improve the process or address potential wrongdoing. To ensure this function is adequate, the IP must include provisions on the scope and coverage of the monitoring, access to information, handling irregularities, reporting to the public, and withdrawal from the monitoring process.

Scope and coverage of the monitoring – The IP must specify the procurement procedures and phases that will be monitored. For each procedure, the monitoring should ideally cover all phases, including contract execution. When execution cannot be covered – for example, due to lack of resources – the monitoring should at the very least cover the process until contract award. In some contexts, the legal framework might not allow for direct external monitoring of some phases, such as bid evaluation and the contract award decision (see page 55). If so, these will have to be reviewed ex post through access to information and minutes documenting decisions.

CIVIL SOCIETY MONITORING ACTIVITIES



The Integrity Pacts EU initiative offers several examples of independent monitoring adding value across the various phases of the project:⁹¹

- In Hungary, in the IP applied to a project for construction of the M6 highway, Transparency International Hungary noticed that the preliminary estimates in the contract were too high compared to similar projects. After gathering information and evidence with the support of a technical expert and presenting it to the contracting authority, the authority revised the estimates and the contract was awarded for €700,000 less than initially expected.
- In Latvia, in the IP project for construction of a new tramline in Riga, the monitor detected a case of tailored bidding in the pre-tendering phase. After inaction by the contracting authority, the monitor turned to the oversight authority, which confirmed the claims and ordered a re-launch of the tender.
- In Italy, in an IP for an energy renovation project in Sicilian municipalities, the contracting authority and the monitor discovered that the winning bidder's technical director had been convicted of environmental crimes and was under investigation for potential corruption in a separate procurement process. However, the company had not disclosed this information. After an in-depth legal review, this finding led to withdrawal of the contract offer.
- In Slovenia, in a project for renovating a hospital's energy systems, there was a procedural issue with a payment requested by the contractor, which included cost of materials and equipment acquired but not yet installed. To prevent any disagreement, the contracting authority requested Transparency International Slovenia, as monitor, to confirm an adequate interpretation of the payment rules. The payment was subsequently postponed until the material and equipment had been installed, in accordance with the established rules.

Access to information – To adequately fulfil its duties, the monitor must have the highest possible degree of access to all documents, information and communications related to the procurement project, including those not normally available to the public. The specific

details of access must be negotiated with the contracting authority, taking into consideration important aspects of timeliness and confidentiality, which can be addressed through pre-established procedures and provisions for non-disclosure (see below).

On preparation of the monitoring agreement, the contracting authority and the CSO must define the arrangements for information disclosure and exchange. In general, it is good practice to agree a predefined list of data, documents and information that the monitor is likely to need during the process, along with the approximate stage when they are likely to be needed. Parties should also agree on the information format and the conditions for granting confidentiality over sensitive items, in line with laws on state and commercial secrets. In particular, these agreements should cover:

- Deadlines and procedural rules for the request and exchange of information. For example, information requests should be answered within 48 hours.
- Points of contact with each authority or party to the IP for the request and exchange of information, along with infrastructure for the process, such as cloud-based folder sharing, or temporary access to contracting authority repositories.
- Non-disclosure agreements (NDAs) that are temporary and limited to specific information. In some cases, NDAs might also entail sanctions if they are breached by the civil society monitor.

Clarification and reporting of irregularities – During IP implementation, potential cases of corruption or other wrongdoing can be detected by the monitor, and reported or raised by any stakeholder involved. The IP should contain clear provisions for how concerns of wrongful conduct will be handled, including to whom concerns will be forwarded, who will be in charge of investigating and addressing them, and a timeframe for doing so. To enhance independence and ensure a swift response, the monitor should establish its own hotlines or channels.

The monitor's reaction to and handling of potential irregularities should be proportionate. In the case of vague indications or mere suspicions of wrongdoing, the monitor should gather more information and seek clarifications and potential remedy from the alleged

perpetrator. If there is an inadequate response, or none at all, or when clear evidence of an illicit act has emerged, the monitor should alert investigation authorities as soon as possible. The monitor should have the right to recourse from such authorities at any time.

Public reporting – To ensure accountability of the IP as a whole, it should contain provisions for the monitor to regularly update the public by publishing monitoring reports. These can have various formats and frequency, to be specified in the IP. They should generally contain information on the monitoring activities, recommendations to improve the procurement process, potential irregularities, requests for access to information, and whether or how all these issues have been addressed (see page 54).

MANAGING CONFLICTS OF INTEREST IN THE IP

Even if the monitoring CSO is perceived as capable and independent, there might still be risk of conflicts of interest during monitoring, particularly if technical experts are recruited to aid the CSO's work – as is common. Such risks can be mitigated with ad hoc provisions for disclosure and accountability in the IP text. These include:

- A declaration from each member of the monitoring team that they have not worked for the contracting authority or potential bidders during an adequate period of time before the IP – for example, three years. If anyone has done so, the person must disclose the nature of the relationship and ensure it has no bearing on the project to be monitored.
- The requirement that team members make a declaration of interests and assets prior to and after the monitoring activities, and to immediately report to the lead implementer or owner of the IP project any cases where conflicts of interest could arise from family relations, membership of associations, or assets.
- Prohibition for any member of the monitoring team to work for the contracting authority or any bidder, contractor or sub-contractor involved in the project during a certain period – for example, two years – after the bidding process has concluded.

- Provision by technical experts from a private consultancy company of their organisation's codes of ethics and implementation status for further scrutiny.

Withdrawal – Withdrawal from the monitoring process, which would likely cause the premature termination of the IP, is one of the monitor's most important rights and guarantees of its independence. General grounds for withdrawal should be specified in the IP, and typically include cases in which the authority or other actors directly or indirectly impede monitoring – for example, by withholding information, ignoring reports of irregularities, or refusing to comply with basic IP requirements. These might affect the reputation of the IP and those involved (see page 56).

Given that withdrawal is a measure of last resort that sends a very powerful message to the public that parties are not meeting their transparency and integrity commitments, this right must be exercised with caution. The procedures involved should be stipulated in the IP and made clear to all parties. In parallel, the civil society monitor must also establish an escalatory internal process enabling it to reach a final decision and provide clear justification to other IP parties and the public as to why it has or has not withdrawn.

REVIEW OF IP COMMITMENTS AND TECHNICAL ASSISTANCE

In parallel to reviewing the procurement project throughout its various phases, another core task of the civil society monitor is to verify that the commitments by the contracting authorities, bidders and contractors are adequately fulfilled. To facilitate these efforts and compensate for the potential lack of knowledge or institutional capacity, the IP could include provisions for the monitor to provide capacity-building technical assistance, and to support participants.

Review of anti-corruption policies and compliance programmes – The monitor could benchmark contracting authorities and bidders' internal anti-corruption policies and practices against international standards and best practices, and provide recommendations and technical assistance to fill the gaps. While this task can be undertaken for contracting authorities from the beginning of the monitoring, probable time and resource constraints mean that for firms, it may make sense to do so only for the winning bidder.

In the IP EU project, civil society monitors in Italy, Poland and Romania worked with bidders and contractors to help them establish whistleblower protection systems and anti-corruption compliance programmes. Notably, the IP in Poland included a specific module and a template for the contractor to establish a whistleblower protection system.⁹² Despite initial concerns about the administrative burden, the contractor did establish the system, and with support from the monitor, it was further developed throughout the project into a compliance management system.

Review of corporate integrity disclosures – The monitor could undertake an assessment of corporate integrity data disclosure by bidders – for example, based on Transparency International's TRAC methodology⁹³ – and publish the results after the conclusion of the tendering process, highlighting best practices and providing firms with recommendations to close the identified gaps. It could also provide the winning bidder with technical assistance to improve its disclosures during the remaining phases of the project or contract implementation.

Capacity building – The monitor could collaborate with academia, think-tanks, policy centres and other actors to carry out training programmes aimed at improving the good governance and integrity capacity of public- and private-sector officials. These could promote the uptake of newly adopted policies, mechanisms and tools, such as codes of ethics, conflict of interest management and whistleblowing mechanisms. In this way, the IP can work as a learning space for public- and private-sector officials, offering them the opportunity to enact concrete internal reforms.

Training should be continuous and delivered not only to public and private employees involved in or directly impacted by the contracting project, but ideally also to third parties who might be indirectly involved, such as partner institutions, business partners and sub-contractors. It is advisable to employ an inductive approach to training, discussing real-world ethical dilemmas, and promoting group discussions and interactive dialogue to allow trainees to apply their independent judgment and knowledge of rules and regulations to create solutions.

TRANSPARENCY AND DATA DISCLOSURE AROUND THE PROCUREMENT PROJECT

In addition to monitoring procurement procedures and providing technical assistance to contracting authorities

and suppliers, the monitor plays a key role in fostering adequate transparency and data disclosure around the procurement project. This is not just about ensuring that essential contracting data is publicly available, but also involves contextualising such data and making it user-friendly, to enable ongoing monitoring by all stakeholders and to create an environment of social accountability around the project.

To facilitate the contracting authority's transparency commitments, the monitor could review and map existing data, documents and information related to the project, and analyse the effectiveness of its disclosure procedures in terms of availability, accessibility and quality. In this way, the monitor could detect information gaps and recommend supplementary data collection efforts, or could identify shortcomings in data quality and assist in cleaning and improvement. This also includes assessing information included in the supplier register, if there is one in place.

In well-resourced IPs, the monitor could facilitate adoption by the contracting authority of open data standards, such as the Open Contracting Data Standard⁹⁴ and the Infrastructure Data Standard.⁹⁵ To this end, the monitor could assemble a team of technical experts charged with identifying existing data gaps and determining the process needed to adopt the standards. It could also seek technical assistance from the Open Contracting Partnership, CoST or Transparency International.

The monitoring team, together with public officials and other relevant stakeholders, should explore different ways to publish data, with the user in mind. This will require identifying existing portals in the country and exploring the possible creation of a new portal or business intelligence tool, as well as early collaboration with different stakeholders and communities to obtain feedback on desired features and functionality.

If the civil society monitor has enough capacity and resources at its disposal, it could facilitate the transfer of project data into a user-friendly platform allowing real-time access to the public and other stakeholders, to monitor the project and provide feedback. Such a platform could contain not only data and information about contracting procedures, but also complementary data that can allow stakeholders to better understand the flow of public funds and scrutinise contracting authorities and bidders.

For example, the portal could include data on government strategies, budgets and spending, and gather the

various disclosures by the contracting authorities and bidders, such as payments to intermediaries, interest and asset disclosures, and corporate integrity data – for example, on beneficial ownership. The portal should also include a social accountability function to engage citizens and local communities to raise concerns and provide information or feedback on the project. If successful, the portal could also include data on other procurement projects.

INFRAESTRUCTURA ABIERTA – MEXICO

To increase transparency and competition, the state of Nuevo Leon in Mexico built *Infraestructura Abierta*, a digital platform driven by open data, to coordinate actors and bring together information to improve both the transparency and the management of the state's infrastructure projects. The platform streamlines the management of public works systems across the full project cycle, from planning to execution and final delivery, linking public contracts with project-level data on planning and implementation from previously scattered sources.⁹⁶

Working with CSO México Evalúa, Mexico's Federal Institute for Access to Public Information and Data Protection, and local stakeholders, the government established a multi-stakeholder coalition to coordinate implementation of *Infraestructura Abierta* and engage citizens and businesses. Following the platform's launch, by the end of 2022, the state saw an increase in the average number of bidders per contract, with the majority of firms winning a bid for the first time. The state also introduced a new law on public participation, mandating the use of various consultation mechanisms for civic engagement in government decisions and policies.⁹⁷

When drafting provisions on data disclosure in the IP agreements, it will be useful for implementers to understand the systems, platforms and portals already in place and the existing public data disclosure requirements for the project. Examining existing technologies and potential for innovation provides the contracting authority, the monitoring organisation and other stakeholders with an idea of the level of effort required and the type of collaboration and process suitable to enable disclosure under the IP.

SOCIAL ACCOUNTABILITY AND CITIZEN ENGAGEMENT

Along with ensuring transparency and data disclosure, the Integrity Pact should aim to foster meaningful engagement with affected communities and project beneficiaries, and strong social accountability to promote constructive multi-stakeholder dialogue, build citizen support for the project, and create feedback loops essential to improve project monitoring. There are several ways to achieve this, and the specific strategies will largely depend on the type of contracting project, the resources available, and the characteristics of the affected communities.

When preparing the IP, the monitor should identify and reach out to the communities affected by the project, such as households, indigenous communities and citizen advocacy groups. The monitor could also approach other communities, such as students, volunteers and retired people, who may be interested in supporting outreach and monitoring activities. Engagement with these communities in the IP design will ensure that their needs, concerns and participation will be integrated into the agreements.

On a basic level, the monitor, in line with its duties of public reporting and handling of potential irregularities, can seek to involve affected communities by disseminating information about the IP and the procurement project, and offering reliable channels for any citizen to provide feedback and report concerns. The most common way to do this is by developing a project webpage (see page 53) or user-friendly platforms for exploring project information (see previous section).

To foster social accountability in the recent IP applied to the construction project of Bulgaria's Zheleznița tunnel, Transparency International Bulgaria, as the monitor, designed and launched a reporting tool called *Tunnel.report*. This allowed affected communities and the general public to submit questions, share observations and concerns, anonymously report potential contract breaches and other irregularities, and upload images and geo-references. For every question received, the monitor collected written or verbal feedback from the contracting authority and published a response online.⁹⁸

When feasible, the monitor should aim to involve affected communities more closely in discussions and

decision making about the project. This could include public consultation processes and structured dialogue mechanisms associated with the planning and pre-tendering phases, as well as on-site visits to assess the progress of contract execution. The monitor could also support communities in gathering and reviewing information on implementation of the contract and provide recommendations for future improvement.

In Rwanda, Transparency International Rwanda developed a tailored “IP+” model, which combines a traditional IP agreement with the use of an online monitoring tool and mechanisms of engagement for affected communities. These include social audits, focus group discussions, on-site visits and direct involvement of two citizen representatives in the monitoring of each project. The application of the IP+ to road construction projects in 2015 and 2016 not only contributed to project successes, but also allowed the monitor to gather a wealth of information on problems and risks associated with infrastructure projects.⁹⁹

In more ambitious IPs, the monitor and affected community representatives could jointly carry out monitoring activities and have the same access to data and information. However, this presupposes adequate training for citizens to effectively aid the monitoring process, which might require significant time and resources. It also requires adequate provisions to mitigate potential reputational, operational and legal risks linked to unlawful disclosure of information or inappropriate behaviour by any citizen involved.

IPs implemented in Italy in the context of the EU pilot project placed strong emphasis on citizen engagement. For example, in the IP for the restoration of the archaeological site of Sybaris, the independent monitor, ActionAid Italy, designed civic monitoring schools to train affected communities to review procurement projects. With agreement from the contracting authority, the monitor involved volunteers in carrying out on-site visits during contract implementation. In another IP for a procurement project on public education in Sicily, the monitor, Amapola, carried out similar activities involving students in the monitoring.¹⁰⁰

Dispute resolution, sanctions and incentives

Depending on the circumstances and scale of the initiative, an Integrity Pact can also include provisions to establish specific mechanisms to solve disputes regarding the procurement project or the IP itself, before they escalate. In some cases, IPs can also include specific sanctions for breaches of laws and regulations mentioned in the public agreement, as well as incentives to encourage proactive participation by contracting authorities and bidders, and compliance with the commitments they signed up to.

DISPUTE RESOLUTION MECHANISMS

Stakeholders may decide to embed ad hoc mechanisms in the IP to solve disputes about the procurement project before they escalate or to bridge differences that may arise among parties over the interpretation or implementation of the IP itself. The need for such mechanisms will be determined, among other factors, by the likelihood that a dispute proceeding would lead to long delays in the procurement project and high legal costs, compromising project implementation and the effective rollout of the IP.

Historically, experience has suggested that IPs use international arbitration as a dispute resolution mechanism, especially when international companies are involved, and national bodies and systems of arbitration do not function well or confidence in them is low. The assumption is that this offers faster, and potentially more objective conflict resolution compared to normal judicial procedures. However, the financial cost of setting up an international arbitration mechanism might be substantial, and implementers might not have adequate resources at their disposal.

In practice, few IPs have featured international arbitration as a dispute resolution mechanism, because countries have had tribunals or judicial authorities with a mandate to deal with such issues, or because the risk of disputes was deemed low. In some cases, such as in Mexico, the independent monitor took on the task of following up on and clarifying bidders' complaints about corruption or unfair competition. More recent IPs have featured “amicable negotiation” as a basic way of solving disputes before they could escalate.¹⁰¹

In general, experience suggests that implementers consider the inclusion of ad hoc dispute resolution mechanisms in IPs applied to large-scale procurement

projects, such as infrastructure construction, where the stakes in smooth implementation are high. For example, parties may decide to establish a multi-stakeholder committee made up of technical experts and representatives from the public sector, business and civil society, tasked with ensuring the resolution of grievances and disputes, such as the High-Level Reporting Mechanism (see below).

THE HIGH-LEVEL REPORTING MECHANISM

To provide a further layer of reassurance on dispute resolution, IP implementers could link the IP to the High-Level Reporting Mechanism (HLRM),¹⁰² a non-judicial multi-stakeholder grievance mechanism jointly developed by the Basel Institute of Governance and the OECD to address complaints of solicitation of bribery and other irregular practices in various contexts, including public contracting procedures.

The HLRM is composed of a secretariat located at a high-level government office, such as the office of a country's president or prime minister, and a multi-stakeholder oversight body. On receipt of a complaint, the HLRM triggers a process of rapid analysis and pragmatic response to the issue. The goal is to re-establish integrity before a reported problem escalates further, and to allow smooth interactions among the stakeholders involved. If parties still cannot solve the difference, they may seek recourse through traditional administrative channels, such as national or international arbitration.

A detailed explanation of dispute resolution procedures under different circumstances goes beyond the scope of this guidance. However, in general, implementers should adopt an escalatory approach, in which the civil society monitor first seeks to clarify the facts and evidence behind a dispute or a complaint and find a solution acceptable to the parties involved. If such an attempt does not succeed, then parties can trigger a more formal, higher-level dispute resolution mechanism with adequate expertise and resources to solve the problem.

SANCTIONS

Through an IP, contracting authorities and suppliers formally commit to comply with applicable laws and regulations. As violation of such laws corresponds to a

violation of the IP, it should specify the sanctions that parties might face in case of proven wrongdoing. For public officials, sanctions could include administrative fines, demotions, relocation to other functions or dismissal from office. For suppliers, sanctions could include denial or loss of contract, fines, liability for damages to other parties, debarment or blacklisting for an appropriate period.

On indication of potential wrongdoing, the civil society monitor or the independent committee for dispute resolution can play an important role in clarifying the facts and gathering relevant evidence. However, the formal investigation of wrongdoing and final attribution of liability for sanctions to different parties will be the responsibility of oversight, law enforcement and judicial authorities in accordance with the procedures established by the law. The IP can enhance the responsiveness and effectiveness of such mechanisms, but does not aim to replace them.

To date, the use of IP-specific sanctions such as fines or contract cancellation has been limited to countries where the IP is legally recognised, such as Italy and India. Apart from such cases, most IPs have not included sanctions for different reasons – for example, because this was not possible under the legal framework, or because it was deemed unnecessary, as the law already provided a strong sanctions regime. Another reason for not including sanctions is that the IP is mostly intended as an initiative whose emphasis is on positive collaboration, rather than punishment.¹⁰³

Apart from sanctions for breaches to procurement or anti-corruption laws, implementers may want to include sanctions or remedial actions for non-compliance with relevant commitments and requirements included in the IP, or for the deliberate obstruction of implementation of the initiative. In these cases, parties can use different measures to impose reputational costs, such as naming and shaming, as well as more substantial actions, such as exclusion of bidders from IP activities or termination of the IP itself, including through withdrawal of the monitor.

The inclusion of such measures to foster compliance with the IP should be weighed against the potential negative consequences, in terms of costs and reputation. If implementers decide to include them, they should also establish ad hoc ethical committees with representatives from all the initiative's backers, to allay concerns of unfair attribution of liability. Such a task could also be taken on by a dispute resolution committee, if the IP features one (see previous section).

INCENTIVES FOR REGULATORY AND IP COMPLIANCE

As mentioned earlier, the IP is an initiative that emphasises positive collaboration rather than punishment. Accordingly, practitioners are strongly recommended to consider the inclusion of incentives to motivate and reward effective compliance with IP commitments by public officials and firms, as an alternative to sanctions. Potential incentives, which should be linked to the attainment of reputational benefits, may include preferences in contract award, inclusion on whitelists, and recognition and awards for adoption and implementation of best practices.

Preferences in contract award – The IP could offer specific benefits, such as additional points in the evaluation of bid proposals or preference in the contract award, for bidders adequately complying with transparency and integrity commitments.¹⁰⁴ While this can be a powerful incentive, implementers should consider potential imbalances between different firms' capacity and resources for meeting their commitments, as well as potential concerns regarding competition and legitimacy, especially if the IP is not recognised by law.

When considering incentives linked to the effectiveness of companies' anti-corruption measures or programmes, it is essential that governments and contracting authorities have the necessary resources and expertise for an adequate assessment. Requiring companies to develop their own metrics for such an assessment may enable competent authorities to evaluate the company's understanding of how and why its programme is effective.¹⁰⁵

The Seoul Metropolitan Government in South Korea first introduced the IP in 2000, following businesses' complaints over widespread bribery in the construction sector. Signature was mandatory for suppliers, and the IP included an oath from bidders not to engage in bribery and collusion. It also included sanctions, such as contract termination and blacklisting, in case of violations, and protection from retaliatory measures and provision of rewards for employees reporting them. Bidders presenting an outstanding code of conduct and a comprehensive compliance programme received extra points in the bid evaluation.¹⁰⁶

Whitelists – In addition to listing the bidders who sign the IP (see page 43), whitelists could also be used to

keep track of corporate transparency and integrity commitments, such as data disclosure or adoption of best practices, and their implementation. Structured in this way, whitelists could be used as a record-keeping mechanism and reference for other contracting authorities. Whitelists set up under an IP may also be linked to broader "allowlists", where suppliers with strong integrity practices are pre-approved to respond to public tenders and enter into procurement contracts.¹⁰⁷

INTEGRITY AND TRANSPARENCY REGISTER FOR COMPANIES AND ENTITIES, ARGENTINA

Managed by Argentina's Anti-Corruption Office, the Integrity and Transparency Register for Companies and Entities (RITE) allows companies to demonstrate their progress in the development of their integrity programmes, in terms of respect for human rights, labour standards, environmental protection and corruption prevention. While a programme's maturity is evaluated through self-assessment questions, RITE also features a toolbox to help companies in the process and allow public bodies to better understand the integrity of companies potentially participating in their procurement processes.¹⁰⁸

Recognitions and awards – The IP could feature or be linked to the assignation of formal recognition or awards for public authorities or bidders that exceed expectations in the implementation of good governance and integrity commitments. The attribution of such awards, which could confer a substantial reputational benefit, could be assigned to the civil society monitor or to a multi-stakeholder panel, and be backed by comparative assessments and evidence of effective implementation.

RECOGNITIONS AND AWARDS FOR PUBLIC- AND PRIVATE-SECTOR INTEGRITY

EU Ombudsman Award for Good Administration – The award acknowledges efforts made by EU institutions to ensure transparency, fairness and accountability in their operations.¹⁰⁹ Each year, candidates can nominate themselves or be nominated by others for specific projects, initiatives or practices. Winners for different categories are chosen by judges appointed by the European Ombudsman. In 2019, the European Commission Directorate for Regional and Urban Policy won the award for excellence in open administration for the initiative “Integrity Pacts EU: Civil Control Mechanisms to Safeguard EU Funds”.¹¹⁰

Pro-Ethics Register (Brazil)¹¹¹ – The register, created by Brazil’s Office of the Comptroller General (OCG) and the Ethos Institute, keeps track of companies that meet a high standard of anti-corruption practice. Assessments are carried out biannually by the OCG and independent experts, based on questionnaires and documentary evidence, and each company is provided with an evaluation report and recommendations. Results are announced in an award ceremony, and the companies recognised in the register are authorised to use the “Pro-Ethics Register” brand.

3 CRITICAL ASPECTS OF INTEGRITY PACT EXECUTION

Communications in the Integrity Pact

Communication is crucial in the process of implementing an Integrity Pact and can make a difference to its overall success. Practitioners should prepare a comprehensive communication strategy to strengthen trust and openness in the procurement procedure being monitored and the IP commitments and activities around it. Such a strategy should ideally be prepared at the outset, taking into careful consideration what will be needed across the various phases of the IP initiative, before and after IP signature.

COMMUNICATION ACTIVITIES BEFORE IP SIGNATURE

In the initiation phase, the focus of communications should be on explaining the rationale for the application of the IP to one or more specific public procurement projects, and the added value it is expected to bring. This will be helpful not only to convince key decision makers to formally proceed with implementation of the initiative, but also to raise interest and create support among relevant stakeholders. Target audiences may include the central government, oversight authorities, potential donors, business associations and procurement project beneficiaries.

Dedicated web space – For general communication about the IP, it is advisable to set up a website, webpage or microsite dedicated to the initiative. This could contain information on what an IP is and how it works, details about contracting projects, news, and tools to allow for easier tracking and monitoring by the general public (see box). As a supplement to webpages, and to reach wider and younger audiences, practitioners can also use social media or, depending on the context, text-messaging to deliver updates regarding the project.

In the Integrity Pacts EU project, all 15 civil society partners across 11 countries established channels to communicate on the IP and their monitoring activities. Nine partners set up a dedicated website, two created a microsite within their website, and four activated a specific section on their website.¹¹² The structure and style varied, but all had common features, including:

- a section with an explanation of the IP and the signed IP agreement
- a description of the public contracting project and related procurement procedures
- channels for citizens to engage in the IP process
- a space for news and updates concerning the IP and the monitored project, including monitoring reports.

Some partners' websites had useful additional features, such as interactive timelines showing milestones within the IP, and reporting channels enabling citizens to report irregularities and voice concerns.

In the preparation phase, practitioners should announce signature of the IP by the contracting authority and the civil society monitor, typically through an ad hoc public event, such as a press conference. It is particularly important to explain not only how the IP works, but also what it will entail in terms of specific commitments and activities. Key target audiences include potential bidders, who must be made aware of the obligations they would have under the IP, and affected communities, who it is hoped will participate in the process.

COMMUNICATION ACTIVITIES AFTER IP SIGNATURE

Communication activities will be particularly intense in the IP execution phase. Practitioners should regularly report on two key aspects to show accountability and help the initiative gain more exposure:

- progress in implementation of the procurement project, and findings from the monitoring activities, including information about steps taken to address potential irregularities, and recommendations to improve the overall process.
- progress in implementation of the specific commitments and activities foreseen by the IP and involving contracting authorities, bidders and affected communities.

Target audiences should be as broad as possible during this stage. Reporting on these two aspects will

enable them to understand an IP's concrete outcomes and impacts, rather than just aspirational or generic achievements. It is important that communications cover not only positive results or success stories, but also provide details on negative results or unintended consequences. Highlighting hurdles encountered along the way gives credibility to the initiative, providing a realistic account of achieved goals and pending challenges.

Monitoring reports – Monitoring reports are essential to IP communication, as they convey information regarding the progress of the contracting project and the IP. They also provide the means by which monitors can flag potential challenges, irregularities and bad practices in the procurement procedure, add incentives for corrective actions, and advocate for changes in government policies and practices to address these problems. The reports can have different formats and be published with differing frequencies, depending on the provisions set out in the IP agreement (see box below).

THE MONITORING REPORT

As part of its duties, the civil society monitor must publish regular monitoring reports on the procurement project's progress and the results of the oversight activities. While the specific structure of monitoring reports can be tailored according to project needs and characteristics, they should include at a minimum the following elements:

- a summary of the procurement project developments in the corresponding stage
- key monitoring activities and associated observations
- a summary of information requested from the contracting authority and recommendations provided to it, along with the monitor's opinion on their fulfilment
- any suspected or observed irregularity, including corrupt or collusive behaviour by public and private actors involved in the procurement, with a description of the context. Confidential information regarding potential inquiries or investigations must remain classified until the process is completed.

Civil society monitors should prepare the monitoring reports as they advance their work, ideally publishing them as soon as each stage of the procurement is completed, or at a frequency they deem necessary to ensure public accountability. In the process, they should also collect opinions from the contracting authority and bidders on potential irregularities or challenges, and let them know how issues will be communicated if they are not addressed. If there is an unbridgeable divergence of opinions over how something should be reported, this should be recognised in the report and interpretation of the facts left to the reader.

In terms of format, monitors should ideally prepare two versions of the report: a technical version, which may include specialised terminology on the procurement project and could be addressed to procurement practitioners and experts in the relevant field, and a shorter, simplified version written in plain language for decision makers, the media, civil society and the general public. Both versions should be uploaded in a timely manner on the IP project website. Monitors may organise a public event to discuss the report's findings.

Workshops, roundtables and public events – Practitioners may also hold workshops, roundtables and public events with key stakeholders involved. These provide excellent opportunities for IP participants to share their experiences and lessons learned in the implementation of commitments and activities, and to receive feedback, recommendations and suggestions for how to better tackle ongoing challenges, improve outcomes and scale up the initiative. They may also offer fertile ground for the exploration of new collective action initiatives.

Collaboration with the media – Practitioners can also collaborate with national, international or local media to ensure comprehensive outreach to the general public. For example, they could identify and reach out to journalists writing on topics related to the procurement project in specialised magazines, business-oriented journals and mainstream news outlets. They could also look for investigative journalism outlets that could provide support in unveiling potential corruption in the monitored procurement.

Risk management

The Integrity Pact is commonly subject to a number of operational, stakeholder and reputational risks that might overlap or affect each other, and threaten the smooth and effective execution of the initiative, and ultimately, its success. Participants must identify and prepare for such risks in advance, ideally during the IP design phase, by assessing the likelihood of their occurrence and their potential impact and consequences, and elaborating effective mitigation strategies.

OPERATIONAL RISKS

Operational risks are those related to the implementation of the procurement project from a technical and public governance point of view. The most common such risks include delays in implementation of the procurement project, and legal obstacles.

Delays in implementation of the procurement project – These may occur for several reasons, such as lack of institutional capacity, inadequate government funding to move the project forward, or slow or inefficient procedures to obtain construction approvals or relocate affected communities. Delays might lead to additional monitoring and implementation costs, due to the increased project duration, as well as reduced stakeholder motivation to engage, especially among citizens.

Over the years, stakeholders in the public and private sectors have also raised concerns over potential delays caused by the IP itself. However, a 2015 independent learning review found no evidence of IPs causing delays or additional administrative burdens to the procurement process. On the contrary, in many instances IPs helped shed light on and make public the actual causes for such delays, such as administrative dysfunction between procurement budgeting and planning, a lack of institutional coordination, or political changes.¹¹³

In an IP applied to the contract to extend the city railway in Cagliari, Italy, the procurement project was affected by procedural delays, upsetting the relationship between the contracting authority and the contractor. To address the situation, the monitor, Transparency International Italy, investigated similar previous contracts, publishing a report detailing the reasons for the delay, an updated project timeline, and an interview with the contractor's project manager. TI Italy also organised a photo exhibition on the history of the railway and its social importance, and a geo-mapping exercise where participants could easily explore the construction site, encouraging and maintaining the affected community's interest in the project.¹¹⁴

Legal obstacles – In some countries, certain provisions of the IP might conflict with national regulations, making the IP less effective. Most commonly, it might not be possible to oblige bidders to sign the IP, or the monitor might not be allowed to review certain decision-making processes in real time. The former situation can be addressed by using whitelists or similar incentives (see page 43), and the latter by establishing provisions for timely disclosure of decision-making minutes to allow for prompt ex post review by the monitor.

STAKEHOLDER RISKS

Stakeholder risks are those linked to the attitude and motivation of the primary participants to proactively engage in the IP. If they materialise, such risks can have negative repercussions on the effectiveness and impact of the IP, as they complicate the organisation of multi-stakeholder activities and might foster distrust among participants. For example:

- **Public officials** may have a “legalistic attitude” and refuse to carry out activities not explicitly mentioned in the law, or they may perceive the IP as being imposed “from above” and interfering with their mandate.

- **Bidders** may be reluctant to engage because of concerns over an additional administrative burden or because of an apparent lack of concrete benefits or added value for them.
- **Affected communities** might not have an interest in the procurement project, or might even oppose its implementation, because they do not perceive its benefits to their daily life or because it negatively impacts them.
- **The civil society monitor** or members of the monitoring team might have links to the contracting authority or bidders and find themselves in a situation of conflict of interest.
- **Misunderstanding of the IP** – Some stakeholders might misunderstand the IP, its functioning and its role in the procurement project, raising doubt about the objectivity of the process due to the close oversight by a civil society organisation.
- **Negative publicity and disinformation** – Vested interests or opponents of an open contracting approach from politics, public administration, the media or business might spread negative publicity and disinformation about the IP, for fear of being exposed or because it limits the possibility of exerting undue influence on the public procurement project.
- **Window-dressing** – Public authorities or business actors may set up and engage in an IP for purely cosmetic purposes, without substantial implementation of commitments and activities, ignoring the observations of the civil society monitor.

Similar to operational risks, stakeholder risks can be partly mitigated through effective procurement project selection and an IP preparation process that considers the motivations and incentives of potential participants, consulting with them to address their needs and concerns. Throughout IP execution, it will also be important to regularly communicate results and progress, to show the IP's benefits. In cases of opposition to the procurement project or of conflicts between stakeholders, the monitor might also have to play a mediating role to smooth disagreements.

In the IP for the expansion of a tramline in Riga, Latvia, implemented as part of the pilot initiative in the EU, there was intense public opposition to the project, due to its expected re-sizing of a cemetery of significant cultural value to citizens. In turn, this caused misunderstandings about the IP and the role of the civil society monitor, Transparency International Latvia. To address the situation, the monitor promptly expanded its IP project webpage to include a more detailed FAQ section and explanation of the IP process, and organised meetings with local civil society groups to discuss possible solutions and alternatives for the construction of the tramline.¹¹⁵

REPUTATIONAL RISKS

Reputational risks are those linked to a negative perception or portrayal of the IP by different actors. These can have serious repercussions on the credibility and public image of participants involved in the IP and might reinforce feelings of opposition to openness in public contracting. Some of the most common such risks include:

The best way to address reputational risks is to ensure maximum transparency and proactive communication and fact-checking about the IP process, its funding and its management. There should also be solid procedures in place to handle potential conflicts of interest within the civil society monitor, and transparency on how they work. In the case of deliberate window-dressing or negligence by the contracting authority, the civil society monitor may also consider withdrawing from the process, sending a strong message to the public.

In Germany, an IP was applied in 2005 to the mega-project for the construction of the new Berlin airport, with monitoring carried out by a renowned technical expert supported by Transparency International Germany. While the project proceeded relatively smoothly until late 2011, by 2013 it was affected by continuous delays and reports of corruption and irregularities. TI Germany and the expert provided recommendations to solve the problems, but the contracting authority refused to address them adequately. In light of such lack of cooperation, in March 2015, TI Germany took the drastic step of withdrawing from the IP. The project continued to experience delays and controversy, and the airport only opened in early 2020, with massive cost and time overruns.¹¹⁶

RISK MANAGEMENT IN THE INTEGRITY PACT



OPERATIONAL RISKS

Delays: lack of institutional capacity, red tape, lack of funding by government budget

Legal obstacles: restrictions to access to information and civil society monitoring, contradictory IP provisions

MITIGATION MEASURES

- “Bridge” activities, transparency over reasons for delays
- Adequate legislative mapping and adaptation

REPUTATIONAL RISKS

Misunderstanding of IP: doubts regarding role of the monitor or IP

Negative publicity: disinformation by vested interests

Window-dressing: IP as “cosmetic” initiative

MITIGATION MEASURES

- Solid communications strategy, explanatory material and public reporting
- Transparency of IP governance arrangements

STAKEHOLDER RISKS

Public officials: lack of commitment, “legalistic” culture

Suppliers: reluctance to engage

Affected communities: lack of interest, opposition to the project

Civil society monitor: conflict of interest

MITIGATION MEASURES

- Well-informed project selection
- Adequate stakeholder engagement in IP preparation

Monitoring, evaluating and learning from the Integrity Pact

A reliable monitoring, evaluation and learning (MEL) system to track the implementation of the initiative and evaluate its positive outcomes and impact is a critical component for effective IP execution. It is through the documented successes, challenges and lessons learned that IP practitioners can advocate for multi-stakeholder joint advocacy action to address the policy issues encountered, both at project and system levels, and encourage possible replication of IP initiatives beyond the sector or geographical area concerned.

While each IP must develop its own tailored MEL system adapted to the circumstances of the initiative and its needs, there are some key general elements of such a system that all IP initiatives must consider. These include the elaboration of indicators to measure the outcomes and impact of the initiative, the establishment of monitoring procedures to assess progress, and regular evaluations to reflect on and discuss achievements, challenges and lessons learned.

ELABORATION OF INDICATORS

It can be beneficial to start considering the MEL system during the initiation or design phases of the IP, once a procurement project has been selected, and the initiators have agreed on the desirable outcomes and interventions of the initiative, and have proceeded to operationalise them in the IP text. As a first step, IP participants should elaborate indicators to measure the success of the IP initiative. There are two general markers of success for an IP initiative:

- 1 The procurement project is executed on time and within budget; the efficiency and effectiveness of the tender procedures are enhanced as a result of the monitor's recommendations, any potential irregularity related to mismanagement and wrongdoing is tackled effectively, and any disputes among public- and private-sector actors are solved in a smooth manner.
- 2 The IP initiative has generated concrete short-term and long-term policy, institutional and behavioural changes or benefits among the primary participants of the initiative, including public authorities, bidders and contractors, and

affected communities. Specific indicators include the following:

- **Good governance and public integrity** – Instances in which public contracting authorities introduce good practices to increase transparency and social accountability, such as open data standards or new mechanisms for citizen engagement, and strengthen their integrity capacity through adoption of codes of conduct, internal controls and other measures.
- **Business transparency, integrity and fair competition** – Instances in which suppliers enhance disclosure of corporate integrity data and reporting on ESG, introduce or further develop measures to increase the comprehensiveness and effectiveness of their anti-corruption compliance programmes, or collaborate to exchange information and experiences in these fields.
- **Open contracting** – Instances in which affected communities are adequately consulted on the procurement project, engage meaningfully with public officials and suppliers to flag their needs and concerns, and successfully use the IP as a means to report and redress corruption-related grievances.

In elaborating the indicators, some challenges may arise – for example, the absence of baseline studies to compare against useful indicators, or a deeper understanding of the problems and issues being tackled through the IP. These can be addressed by ensuring that the initiation and design of the IP are collaborative and inclusive, and consider the inputs and perspectives of all participants – who will ultimately have to agree regarding the desired outcomes.

INTEGRITY PACT MONITORING, EVALUATION AND LEARNING



MONITORING AND EVALUATING THE IP INITIATIVE

During the IP execution phase, the facilitator must gather data on the indicators, and share reports on the accumulated findings to demonstrate the progress and achievement of the initiative. It is advisable for implementers to perform regular interim reviews or evaluations, based on the overall duration of the project, to check progress on the objectives and adjust activities and related budget accordingly. During such reviews, they should also gather feedback from participants on how well the activities are contributing to agreed objectives.

Once all IP activities are concluded, the facilitator must carry out a final impact evaluation to determine the extent of the IP's contribution to external outcomes and understand whether change has taken place. It must also record any negative or unintended consequences, and lessons learned that could be incorporated in future IPs. A final evaluation from independent experts may also be commissioned to critically assess the efficiency, effectiveness and impact of the whole initiative and potential replication and scaling up.

In the EU pilot IP initiative, the Transparency International Secretariat, as project coordinator, identified 14 outcomes, including policy, institutional and behavioural changes.¹¹⁷ These were grouped into “short-term outcomes”, meaning changes among engaged groups for the monitored project – the contracting authority, bidders, affected communities and the media – and “intermediate outcomes”, meaning changes beyond the specific monitored project, at public procurement policy level. Given the pilot nature of the initiative, these represented outcomes to which an IP could, but would not necessarily, contribute.

To report on such changes, the MEL system for the project comprised:

- ongoing updates on the findings of the monitoring
- summaries through specific calculation of key performance indicators for donor reporting
- quarterly change-mapping exercises at both country level, including external validation, and for the initiative as a whole.

While the MEL system facilitated collection of evidence and understanding of the impact of the IP initiative, some project partners felt that it was overly complicated, and its demand went beyond their internal capacity, adding a heavy reporting burden to other reporting requirements for the project. There was also a lack of mutual understanding regarding the interpretation of indicators across different countries. This suggests that for future large-scale initiatives, it will be of utmost importance to ensure clarity of the initiative’s goal; keep data reporting requirements simple, and recruit for dedicated MEL positions.

CONCLUDING THE INTEGRITY PACT INITIATIVE

An adequate conclusion of the Integrity Pact initiative is key to the sustainability of its outcomes. Building on the final project evaluation, the facilitator may organise one or more concluding workshops, where participants critically assess lessons learned, key challenges, and potential reforms that public contracting authorities, governments and business actors could undertake to improve their policies and practices. Discussions

should also cover recommendations for replication and improvement of IPs, which are crucial to determine the future of the initiative.

The findings of the IP closure process can be encapsulated in a final public report summarising the monitoring results and providing policy recommendations for systemic reforms. This is typically prepared and published by the civil society monitor, though implementers may consider a joint publication to show the multi-stakeholder value of the initiative. Publication of the report could be accompanied by a final public event bringing together stakeholders to discuss IP outcomes and related recommendations.

In contexts of systematic or cross-national IP application, implementers should aim to streamline the publication of such information through ad hoc websites or registers, where stakeholders can explore data and statistics in a user-friendly manner. They could also consider providing the information to established platforms that collect and systematise data about collective action initiatives, such as Transparency International’s Global Integrity Pact Compendium¹¹⁸ and the Basel Institute’s B20 Collective Action Hub.¹¹⁹

Centralised and user-friendly publication of IP data would allow policy experts and the general public to scrutinise the way in which IPs are implemented, and enable feedback loops. It would also allow potential IP proponents to access relevant examples and knowledge, so they can more easily begin new initiatives. It may even encourage the creation of online communities where local CSOs, public officials, business actors and other stakeholders can spontaneously collaborate on the co-development of new IP initiatives.

In countries aiming to mainstream IP application through their legal system, governments could include civil society monitoring reports among the project documents that must be published via the national procurement portal. A public body may also be responsible for collecting, managing and making accessible data and information on the implementation and performance of the IP. In the long run, comparison of data between procurement processes that are subject to an IP and those that are not can provide valuable information on the IPs’ impact on process administration and competition.

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