



CLEAN CONTRACTING: SAFEGUARDING EU FUNDS IN EUROPE WITH INTEGRITY PACTS

FREQUENTLY ASKED QUESTIONS

What is an Integrity Pact?

Integrity Pacts (IP) were developed in the 1990s by Transparency International as a tool for preventing corruption in public procurement. An Integrity Pact is both a legally-binding agreement and an approach to a public procurement process which commits a contracting authority and bidders to comply with best practice and maximum transparency. A third independent actor, in this case a civil society organisation (CSO), monitors the process to determine whether it is in line with commitments to transparency, accountability and anti-corruption. The approach aims to promote clean public contracting through government and private sector commitments combined with civil society monitoring and public engagement.

What is the role of the monitor?

The monitor is an independent actor who oversees every step in the public procurement process, from pre-tender to implementation to evaluation. The contracting authority and the bidders commit to engage with the monitor and provide information to enable them to carry out their monitoring function.

If the monitor suspects irregularities at any stage of the procurement process and receives no satisfactory response from the contracting body, they report their concerns to the relevant authorities and seek action to resolve them. The approach seeks therefore to identify and address weaknesses and continuously strive for improvements. It is not a stamp of approval for the contracting authority or for the

contracting process. The monitor will fulfil its role until the completion of the contract, as long as all parties are fulfilling their obligations. If they fail to do so, the monitor can exercise its right to withdraw from the process which effectively brings it to an end.

However, the role of the monitor goes beyond simply monitoring the contracting process. They seek to further support good practices within the contracting authority and private sector actors by recommending changes to policies, processes or practices. The monitor also fulfils a role in reaching out to and engaging the public to increase the capacity and potential for members of the public to hold public officials to account.

How did you choose the procurement processes that you will be monitoring through this project?

Contracting authorities were [invited to submit expressions of interest](#) to a review panel made up of DG Regio, DG Home and Transparency International Secretariat. Their applications included a suggested public procurement process to monitor. This invitation included clear selection criteria based on which 18 projects were [selected](#).

How did you choose the monitors?

Similar to the selection of the public procurement project, the selection of the civil society project partners (who take on the role of monitor) was also an [open application process](#) run in 2015. As a result there are 15 monitors in 11 countries: both

Transparency International Chapters (Bulgaria, Czech Republic, Greece, Hungary, Italy, Latvia, Lithuania, Poland, Portugal, Romania, Slovenia) and other CSOs (Action Aid and Amapola in Italy, Romanian Academic Society and Institute for Public Policy in Romania). The application process included verification of absence of conflicts of interest among the partners. When required, specific expertise can be contracted by the monitor.

What is a Transparency International Chapter?

Transparency International consists of more than 100 Chapters which are locally established, independent organisations fighting corruption in their respective countries. For more information on Chapters, including the [Chapter accreditation process](#), please visit Transparency International's official [webpage](#).

How are irregularities and corruption reported?

It is anticipated that the monitor will encounter a number of early warning signs of corruption during the implementation of the project rather than corruption itself. How this will be reported will depend on the case. It could range from a discussion among the signatories to the Integrity Pact to an official report to the relevant authorities. The monitor will follow up with the case and record findings in its regular public reports.

How will wrongdoing be punished?

The approach does not give powers to the monitor to punish wrongdoing. The obligation to sanction wrongdoing remains with the relevant public authority or private entity depending on the source and severity of the wrongdoing. The monitor will, however, follow up with the authorities to ensure that action is being taken. Furthermore, the monitor will publicly report on the issues identified and on the steps taken to address them. Weaknesses or inefficiencies in investigating and punishing wrongdoing will be highlighted.

Are you supporting a corrupt system?

The Integrity Pact should not be understood as giving a stamp of approval. To the extent that parties to the Integrity Pact make a real commitment to anti-corruption principles, we will work together with them to continue improving standards. In the event that they fail to meet their commitments, and after appropriate warnings, the CSO monitor can take steps to bring the IP to an end. It is not a tick-box exercise.

What is the point of just monitoring one or two contracts in a country with endemic corruption?

Seeking to improve performance in one or two contracts is an important step. It demonstrates that civil society and the public can play a key role in reducing corruption in public procurement; and it can improve relationships and working attitudes between the different actors. By doing this, the project creates a space for collaboration to happen on a more regular basis and it makes other reforms less threatening.

Is the project just another layer of bureaucracy?

No. The project is in fact seeking to demystify public procurement processes and to make them more transparent and accountable to the public. The project should also increase the likelihood that members of the public will raise their voices and that the contracting authority will take these inputs into account. In this way, the project does not add another layer of bureaucracy but rather seeks to change attitudes and relationships that matter in order to ensure good quality, efficiency and value for money.

The Integrity Pact has not always worked. How do we know it will work here?

In 2015, Transparency International conducted two extensive reviews of Integrity Pacts implemented globally and in the EU: [Transparency International's Integrity Pacts for Public Procurement](#) (global) and [Integrity Pacts for Public Procurement](#). These identified key elements needed for success:

- a stable and independent source of funding
- independence of the monitor
- clear lines of accountability
- sufficient resources to facilitate monitoring of the project at hand

All of this learning has been taken on board and used to support the design of the 18 Integrity Pacts implemented through this project. Having said this, real commitment to the process from all parties is an essential element of its success. If that is missing from the outset or falls away during the course of the process, the Integrity Pact risks becoming ineffective.

Are there different types of Integrity Pact?

The key element of an Integrity Pact is civil society monitoring of public procurement. Transparency International does not recognise or condone the use of the name Integrity Pact unless it follows this model. Other actions which masquerade as "Integrity Pacts" but which involve unilateral commitments from the public or private sector without any external monitoring are not the same.

You are calling it a civil society action but you are using companies as subcontractors. How do you reconcile this?

Subcontractors are hired for their expertise but are answerable to the CSO. They are responsible for performing their functions according to the terms of reference and contract that they enter into with the CSO. They are therefore responding to the needs and delivering on the requirements of civil society and not free to act in their own interests. Should they do so, they are likely to be in breach of contract and the relevant penalties would be applied. It is common for civil society to draw on external expertise in this way when needed for a particular piece of work. It is not sustainable for CSOs to try to maintain a high level of expertise across different fields over a long period in-house.

Why are you working with a contracting authority thought to be corrupt?

The project is intended to detect and prevent corruption by increasing civil society involvement; working with reform-minded actors; and demonstrating good practices. It is not a stamp of approval. The approach requires very clear and legally-binding commitments at the outset from each party. Should a contracting authority enter into an Integrity Pact, it is a strong indication that the institution has taken the decision to commit to anti-corruption measures. Our role as civil society is to support that whilst remaining independent. We will make recommendations for improvements but we will also raise issues when they arise. The contracting authority must proactively participate and demonstrate its commitment to transparency and anti-corruption measures throughout. If they fail to do so, the monitor can and will exercise its right to withdraw from the process. They can then continue to work from outside and draw attention to the weaknesses identified.

Why is the Integrity Pact different or better from other anti-corruption instruments?

Anti-corruption instruments fall into categories of prevention, detection, investigation and sanctioning. This approach cuts across all four. It is also a multi-stakeholder initiative which brings all parties to the table to find a solution together. This is not a usual approach and spreads the responsibility for clean public contracting across all stakeholders. There is a lot happening in order to address the challenge of corruption in public procurement and this project is part of that picture.

Are you not doing the work of oversight entities?

No, we are complimenting this work. A lot of the work of oversight entities is done after the fact – when it is too late to stop corruption from happening. The clean contracting approach can detect issues before they become problems. Civil society can then work with oversight entities by alerting them to irregularities as they arise. In this way, it is very different to the work of oversight entities.

What is Transparency International's role and how much are you receiving for this?

Transparency International is coordinating this project across 11 EU countries, 15 partners and the monitoring of 18 public procurement projects. To do this, the project has received a grant of EUR 8.8 million from the European Commission. This money is divided among the Transparency International Secretariat and 15 project partners to support the costs of technical monitoring, training, outreach, communications, public engagement and reporting. Having an external source of funding helps to

ensure that the monitor can act independently and without undue influence.

How is the European Commission involved?

In 2016, the European Commission's Directorate-General for Regional and Urban Policy (DG REGIO) and Transparency International joined forces to tackle corruption in public procurement in EU-funded investments. The decision was taken to pilot the integrity pact model on large scale throughout the EU.

DG REGIO is therefore providing support and funding for this project. Transparency International Secretariat is coordinating the project working together with the 15 nationally-based partner organisations.

Will you ensure clean contracts and no corruption?

Our approach aims to improve the likelihood that corruption is detected. If there are poor practices these will be highlighted and improvements or redress sought. The monitor will propose recommendations to avoid corruption; through public reporting it will increase the transparency of the process and demonstrate how such best practices can work elsewhere; and it will seek to engage the public and demonstrate the role that they can play in improving public procurement overall. It will not, however, guarantee the absence of corruption.

What are the benefits for society?

The specific benefits to society will depend in part on what the public procurement project being monitored is. A road building project may, for example, mean that society benefits from a road built to a high standard and according to the correct specifications. However, more broadly speaking, this approach contribute to a number of benefits for society. It contributes to building greater trust in public procurement processes. When businesses trust the process, there is greater competition and better value for taxpayers' money; when the public trusts the process it improves the likelihood that they will engage in future contracting processes. By increasing the level of knowledge of best practices, the public are better able to hold their governments to account and governments can improve their anti-corruption performance.

If you are spending €8.8 million how much are you going to save?

The costs of corruption in public procurement in the EU has been estimated at 5 billion euros. It is not possible to give a calculation for each specific project about what can be saved, however, through monitoring the process, issues such as objective criteria, fair treatment of bidders, and proper execution of the contract can be ensured. These are areas where major losses are often made.