

## WHAT ARE INTEGRITY PACTS?

Integrity Pacts are a tool for **preventing corruption in public contracting**. They are essentially an **agreement** between the government agency offering a contract (the “contracting authority”) and the companies bidding for it (the “bidders”) that they will **abstain from** bribery, collusion, extortion and other **corrupt practices** for the extent of the contract. To ensure accountability, Integrity Pacts also include a **monitoring system** typically led by **civil society** organisations.

Integrity Pacts have been around since the 1990s, and have been applied in more than 15 countries and 300 separate situations. They help save taxpayer funds, ensure that projects and public works are delivered efficiently, and stave off avenues for illicit gain. Beyond the individual impact on the contracting process in question, Integrity Pacts also intend to create confidence and trust in the public decision-making, a more hospitable investment climate and public support for the government’s own procurement, privatisation and licensing programmes.

### To what type of contract can Integrity Pacts be applied?

Integrity Pacts can be used in a wide variety of situations. They can be used for

- **construction** contracts,
- **supply** contracts,
- engineering, architectural or other **consultants** contracts,
- state **permits, licenses** or **concessions**, or for **government-regulated services** (such as telecommunications, water supply or rubbish collection services),
- state asset **privatisation** programme,
- other **services delivery** contracts.

### When should the Integrity Pact start?

Whenever possible, the Integrity Pact should cover all the activities related to the contract from the identification of a need for procurement, the designing of the tender, the pre-selection of bidders, the bidding and contracting proper, through the implementation, to its completion and operation.

### Who are the parties to an Integrity Pact?

In the preparatory phase of the procedure (from the identification of a need for procurement up to the moment of publishing a call for tenders) the **contracting authority** and the **monitor** constitute the parties of the Integrity Pact.

In the bidding phase, the Integrity Pact is joined by the **bidders**, the persons making an offer for carrying out the task that the procurement is aimed at.

In the third, closing phase, which is the implementation of the contract signed by the winner of the public procurement procedure, only the **successful bidder**, the **contracting authority** and the **monitor** take part.

**Donors** and **investors** as well as **sub-contractors** of the bidders can also join the Integrity Pact.

The monitor follows closely all stages of the procedure and the implementation of the contract, and signals the eventual unlawful components to the parties. Within his duties is also the preparation of regular reports on the transparency and fairness of the process, which are made publicly available.

## What are the main elements of an Integrity Pact?

An Integrity Pact is signed for a particular project between the contracting authority undertaking the project, the monitor and the bidders. The major elements are:

- An undertaking by the contracting authority that its officials **will not demand or accept any bribes**, gifts or payments of any kind and maintain appropriate disciplinary, civil or criminal sanctions in case of violation.
- A statement by each bidder that it has **not paid, and will not pay, any bribes** in order to obtain or retain the contract.
- An undertaking by each bidder to **disclose all payments** made in connection with the contract in question to anybody.
- The explicit acceptance by each bidder that the commitments and obligations remain in force for the winning bidder **until the contract has been fully executed**.
- Bidders must have a company **code of conduct** and a compliance programme for the implementation of the code of conduct throughout the company.
- A **set of sanctions** for any violation by a bidder of its statements or undertakings, such as: - Denial or loss of contract - Forfeiture of the bid or performance bond or other security - Liability for damages to the contracting authority and the competing bidders - Debarment of the violator by the contracting authority for an appropriate period of time
- An **independent external expert monitor**, who has wide-reaching rights and functions.

## How to cover the monitor's fees?

The cost of implementing an Integrity Pact may vary depending on the implementation arrangements, the activities included in the process and the complexity of bidding procedures. Whatever the case, experience has shown that they remain a very small percentage of the project costs and can be covered by different sources:

- the authority's own resources,
- contributions from donors or project financiers,
- bidders' fees,
- a combination of the above.

## WHY ENTER INTO AN INTEGRITY PACT?

Integrity Pacts increase transparency and accountability, enhance trust in authorities and government contracting, contributes to a good reputation of government agencies, brings cost savings and improves competition through better procurement.

## A simple and flexible tool

Integrity Pacts are essentially contracts establishing the rights and obligations of all the parties to a public contracting process. They are very simple, flexible and adaptable:

- they can be implemented within the regular authority of contracting officials and bodies,
- they allow the implementation of desirable standards without the need for additional legal reform,
- they can be applied to a wide variety and size of public contracts.

### **Enhancing public trust**

- Integrity Pacts enable governments to gather and mobilise public support for the government's own procurement, privatisation and licensing programmes and to avoid the high cost in trust and reputation attached to occurrences of corruption in highly sensitive projects.
- The use of Integrity Pacts makes it possible to enhance trust and improve credibility and legitimacy of a contracting authority: Whoever is ready to expose its public procurement procedure to the scrutiny of an independent monitor, and through him to the public, has nothing to hide.
- Integrity Pacts create confidence and trust in public decision-making, beyond the individual impact on the contracting process in question, and foster a more hospitable investment climate.

### **Ensuring projects quality and lowering costs**

Integrity Pacts enable governments to reduce the high cost and distorting effects of corruption in public contracting by:

- guaranteeing fair play: it will motivate the bidders to prepare the best possible offer, and consequently implement the contract in the best possible way – none of the bidders will enjoy secret advantages;
- allowing early detection of problems: timely fixes are less expensive and prevent delays in project implementation.

### **Improving public contracting processes for future projects**

- Integrity Pacts can pinpoint to systemic anomalies in a given contracting authority's functioning mode which, if corrected, will result in considerable improvement of all future procurement processes.
- Integrity Pacts can also encourage institutional changes, such as the increased use of e-procurement systems, simplified administrative procedures and improved regulatory action.

### **Fulfilling expectations**

National anti-corruption preventive actions are expected by citizens and also by the European Union:

- New EU Cohesion Policy regulations have established new regulatory responsibilities for national authorities managing EU funds, which require that they put in place proportionate fraud prevention measures identifying and tackling potential risk areas.

- Anti-corruption measures of EU Member States are assessed by the European Commission in its anti-corruption report, published every 2 years (the next one due in 2016).

### **Showing leadership**

Contracting Authorities can show they are innovative and lead by example. From this perspective, Integrity Pacts:

- empower public officials determined to fight corruption and to protect their good work in complicated projects;
- empower civil society in its contribution to the integrity of public procurement processes.