

UNITED NATIONS OFFICE ON DRUGS AND CRIME

INTEGRITY IN INTERNATIONAL INVESTMENT PROJECTS

GOOD PRACTICES, NEW PERSPECTIVES



Imprint:

© 2023, United Nations Office on Drugs and Crime (UNODC)

 $Recommended\ citation:\ UNODC.\ 2023.\ Integrity\ in\ International\ Investment\ Projects-Good\ Practices,\ New\ Perspectives.$

Disclaimer: The designations employed and the presentation of material in this information product do not imply the expression of any opinion whatsoever on the part of the United Nations Office on Drugs and Crime (UNODC) concerning the legal or development status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.

The findings, interpretations, and conclusions expressed in this information product do not necessarily reflect the views of UNODC. The project team does not guarantee the accuracy of the data included in this work. This information product is based on evolving international good practices, as understood by the project team and reflects experiences of a range of businesses operating in different jurisdictions with varying legal systems at different stages of economic development. It also takes into account existing literature, international conventions, and norms and principles.

Information on uniform resource locators and links to Internet sites contained in the present publication are provided for the convenience of the reader and are correct at the time of issuance. The United Nations takes no responsibility for the continued accuracy of that information or for the content of any external website.

This information product is a reference tool only. The use, distribution and dissemination of material in this information product is encouraged for private study, research and teaching purposes, or for use in non-commercial products or services.

Copyright ©: Cover: RMDobson, p. 8/9: HuyThoai, p. 20/21: NicoElNino, p. 36/37: Chirapriya Thanakonwirakit, p. 47: Scatec Solar, p. 57: Ricardo Gomez Angel, p. 65: Charlein Garcia; p. 69: Emma Harper; p. 76: AfDB Projects, p. 112: Juan Sanchez, p. 116/117: Nikada.

Graphic design and layout: Gerda Palmetshofer

Editing: Jaya Mohan

This publication has not been formally edited.

ACKNOWLEDGEMENTS

This publication was developed by the United Nations Office on Drugs and Crime (UNODC) with the generous funding from the United Nations Peace and Development Trust Fund within the framework of the UNODC project "Fostering sustainable development by supporting the implementation of the United Nations Convention against Corruption in countries along the Silk Road Economic Belt".

UNODC acknowledges with profound gratitude those who have contributed their time, expertise and experience at various stages of the development of this publication, and in particular the following experts who provided written comments:

Alan Bacarese (World Bank Group); Alexander Bruce Matheson (Camborne School of Mines, Exeter University); Benjamin Herisset (United Nations Commission on Trade Law (UNCITRAL)); Caroline Nicholas (UNCITRAL); Claude Wendling (International Monetary Fund (IMF)); David Bloomgarden (Public Investment Management Consultant); Ed Hearne (IMF); Evren Aydoğan (Middle East Technical University); Emmanuel Mathias (IMF); Hamid Sharif (Asian Infrastructure Investment Bank (AIIB)); Hong Zhang (Johns Hopkins University (SAIS)); Joseph Mauro (World Bank Group); Lisa Miller (World Bank Group); Petter Matthews (Infrastructure Transparency Initiative (CoST)); Racheeda Boukezia (IMF); Robert Delonis (World Bank Group); Sofia Tirini (Access Partnership); Xiumei Wang (Beijing Normal University).

In particular, UNODC extends its thanks to Brook Horowitz, CEO of IBLF Global and Bart Scheffers as co-authors, Afia Poku, and Yao Deng and Javkhlan Yadamdorj, UNODC staff, for their substantive contributions, content research and review, and drafting of this publication.

UNODC also wishes to acknowledge the contributions of Brigitte Strobel-Shaw, Shervin Majlessi, Vladimir Kozin and Yangjing Qian of the Corruption and Economic Crime Branch who reviewed and provided valuable inputs in various sections of the publication. Moreover, UNODC would like to thank Jaya Mohan for editing this publication and Gerda Palmetshofer for its graphic design.

CONTENTS

BREVIATIONS AND ACRONYMS	
ECUTIVE SUMMARY	/
Chapter 1	
INTRODUCTION	8
1.1 Background and objectives	
1.2 Structure	
1.3 The Good Practices Model framework	
1.4 Selection of projects	
1.5 Selection of good practices	19
Chapter 2	
UNITED NATIONS CONVENTION AGAINST CORRUPTION	
AS A FRAMEWORK TO ENSURE INTEGRITY IN INTERNATIONAL	
INVESTMENT PROJECTS	20
2.1 A global anti-corruption framework	
2.2 A meritocracy and open culture in public service	
2.3 Lobbying, political financing and elections	
2.4 Conflicts of interest	
2.5 Reporting acts of corruption	
2.6 Participation of society2.7 Further actions that support the overall integrity of international investment	29
projects	30
projects	30
Chapter 3 GOOD PRACTICE MODELS (GPMs)	36
`	
PHASE 1: PROJECT NEEDS IDENTIFICATION AND APPRAISAL	39
GPM 1: Sufficient public engagement in needs determination, project identification,	
and appraisal	
GPM 2: Objective environmental and social impact assessment	
GPM 3: Effective public financial management	
GPM 4: Appropriate project specification and procurement design	
PHASE 3: CONTRACT AWARDING (TENDER)	
GPM 5: Fair and transparent tendering process	
PHASE 4: CONTRACT MANAGEMENT AND IMPLEMENTATION (POST-TENDER)	
GPM 6: Effective internal control and oversight	
GPM 7:Clear and stringent rules and standards for project adjustment	100
PHASE 5: EVALUATION AND AUDIT	107
GPM 8: Independent monitoring and auditing	108
CONCLUSIONS	117

ABBREVIATIONS AND ACRONYMS

COSO	Committee of Sponsoring Organizations of the Treadway Commission
CS0	Civil Society Organization
EU	European Union
EU Directives	European Union Public Procurement Directives
FATF	Financial Action Task Force
FIU	Financial Intelligence Units
GDP	Gross Domestic Product
GPMs	Good Practice Models
ICT	Information and Communication Technologies
IFC	International Finance Corporation
IFI	International Financial Institution
IMF	International Monetary Fund
INTOSAI	International Organization of Supreme Audit Institutions
IRM	Implementation Review Mechanism
ISO	International Organization for Standardization
MDB	Multilateral Development Banks
MoU	Memorandum of Understanding
NGO	Non-Governmental Organization
ODA	Official Development Assistance
OECD	Organisation for Economic Co-operation and Development
PPP	Public-Private Partnerships
SDGs	Sustainable Development Goals
SAI	Supreme Audit Institution
SME	Small and Medium Enterprise
TCFD	Task Force on Climate Related Financial Disclosure
UN	United Nations
UNCAC	United Nations Convention against Corruption
UNCITRAL	United Nations Commission on International Trade Law
UNCITRAL Model Law	UNCITRAL Model Law on Public Procurement
UNGASS	United Nations General Assembly Special Session
UNGC	United Nations Global Compact
UNIC	Ukrainian Network of Integrity and Compliance
UNODC	United Nations Office on Drugs and Crime
UNPRI	United Nations Principles for Responsible Investment
WTO	World Trade Organization

EXECUTIVE SUMMARY

This publication seeks to guide practitioners on how to curb corruption and promote integrity through the different phases of international investment projects.

Drawing on real practices, it demonstrates how the values and principles of anti-corruption can be implemented throughout the international investment cycle.

The publication could be of particular use to public officials involved in the planning, design, and implementation of international investment projects and anti-corruption officers. Senior executives and managers from the private sector engaged in such projects will also find it useful.

This publication lays down the prerequisites for ensuring integrity in international investment projects illustrated by a range of concrete examples and good practice models (GPMs) from major projects in various countries and industries during each phase of the investment cycle.

The introduction explains the methodology underlying this guide, and a chapter on selected regulatory and institutional arrangements takes a transversal approach to elaborating the issues discussed under the GPMs.

The GPMs and the project examples touch upon the various elements which governments can bring to bear in order to minimize the risk of corruption: public engagement in project needs identification and appraisal, objective environmental and social impact assessment, effective public financial management, appropriate project specification and procurement design, fair and transparent tendering process, effective internal control and oversight, clear and stringent rules for project adjustment, and independent monitoring and audit.

In conclusion, this publication highlights good practices in a selection of international investment projects in which principles such as transparency, integrity and accountability are central to the planning and implementation processes. The examples put forward show that managing risks, controlling corruption and instilling integrity in international investment projects are possible and there are innovative ways to do so. The good practices in this publication highlight a number of common features that can serve to guide public officials dealing with international investment projects.





1.1 Background and objectives

The negative impact of corruption on international investment and development

International investment plays an essential role in supporting countries' social and economic development, boosting overall trade and innovation, and supporting economic growth, in particular by co-financing and implementing critical infrastructure projects. Especially during an economic downturn or times of austerity, international investment projects can provide much-needed resources for the achievement of national development goals.

Corruption is a strong deterrent to investment and economic growth, and its presence in a country makes it far less attractive as an investment destination. Principles for Responsible Investment (PRI), an international network of investors for sustainable investment, has estimated that in developing economies, bribery may add over 10 per cent to the costs of a project. Poor governance in public investment results in countries wasting about one third of their infrastructure spending due to "inefficiencies" which include corruption. This loss "can surpass ... 50 per cent in low-income countries."

Corruption not only significantly adds to the cost of doing business, but also undermines the efficiency of investments by distorting competition. Corruption is both a direct and indirect consequence of poor project oversight, and leads to the waste of scarce public resources, reduction in the quality of investment, and suboptimal results.

Corruption can take many forms – embezzlement around procurement processes, bribery to secure concessions, trading in influence to select unfeasible and unnecessary projects and/or create biased regulations or to sway decision-making in commercial courts, are just a few of these.

Its adverse consequences are serious. Aside from increasing costs and hampering investment, corruption has also been associated with stifling trade and raising costs of equity and debt financing.

Corruption also threatens sustainable development and the implementation of the 2030 Agenda for Sustainable Development. On one level, the major challenges for sustainability, such as climate change, environmental pollution, unequal and insufficient health and education and lack of social justice, are directly hampered when public funding fails to address key development issues or fails to reach the targeted beneficiaries because the funds have been siphoned off to the benefit of corrupt actors. On another level, the cross-cutting goal of Sustainable Development Goal (SDG) 16 – Peace, Justice and Strong Institutions – concerning as it does the guarantee of human rights, law and order, and security through good governance and justice – will not be reached if major investment projects are undermined by corruption.³ By the same token, unless

¹ PRI Association, "Engaging on Anti-Bribery and Corruption UNPRI Publication", 14 June 2016. https://www.unpri.org/sustainability-issues/environmental-social-and-governance-issues/governance-issues/anti-corruption/.

² Gerd Schwartz, Manal Fouad, Torben Hansen, Geneviere Verdier, "How Strong Infrastructure Governance Can End Waste in Public Investment", IMF Blog, 3 September 2020. https://blogs.imf.org/2020/09/03/how-strong-infrastructure-governance-can-end-waste-in-public-investment/.

³ United Nations Department of Economic and Social Affairs, "The 2023 Agenda for Sustainable Development". https://sdgs. un.org/goals.

there are strong institutions capable of deterring corruption, investment projects will remain vulnerable. A broader effort to align financial frameworks and relevant institutions, including those governing investment flows, with the principles of accountability, transparency and integrity is, therefore, vital to reduce the impact corruption can have on development financing and international investment.

Efforts to counter corruption

The United Nations Convention against Corruption, ⁴ a global instrument to counter corruption, entered into force in 2005. Since then, most countries have ratified and implemented the Convention within their legal frameworks and made tremendous progress in tackling the problem of corruption. The Convention has guided the efforts of governments worldwide to prevent, detect and act upon corruption in various spheres of the public and private sectors. It has prompted numerous legal reforms at the national level, including those based on the recommendations emerging from the Implementation Review Mechanism (IRM), a peer review process that assists States parties to effectively implement the Convention. As the guardian of the Convention, UNODC has continued to assist States parties in their efforts to fully implement the Convention, through creating knowledge and providing legislative advisory services and capacity-building programmes.

With their vast financial scale, complex delivery requirements, and involvement of a wide range of international players, international investment projects are especially vulnerable to corruption, with certain sectors exhibiting higher risks for corruption than others. In practice, there are a considerable number of projects financed by multilateral development banks (MDBs). These institutions invariably have rigorous procurement policies that aim to ensure fair, open, transparent and corruption-free procurement. When these policies have been adequately implemented, they have played an important role in countering corruption in MDB-financed projects. Several significant collective initiatives have been established throughout the years to tackle sector-specific risks, for example, the Extractive Industries Transparency Initiative (EITI), the Infrastructure Transparency Initiative (CoST) and the Maritime Anti-Corruption Network (MACN).

However, considerable implementation gaps remain, for instance, inadequate preventive measures, insufficient criminalization, low levels of enforcement and challenges in securing international cooperation across the globe, coupled with difficult-to-detect corrupt practices. When it comes to anti-corruption measures vis-à-vis international investment,⁵ safeguarding return on investment and ensuring value for money are key priorities and form the basis for many of the good practices discussed in this publication.

⁴ Often referred to as UNCAC and, in this publication, as "the Convention".

⁵ For the sake of this publication, an international investment project is understood to involve project finance, funding and/or lending from one or more governments or multilateral development banks or other financial institutions. The governments, together with private financiers, companies, and development banks, from a single or several countries, may also be involved in implementing the projects.

Objectives

The publication seeks to assist public officials involved in the design, planning, and implementation of international investment projects and anti-corruption officers on how best to curb corruption and promote integrity across all phases of international investment projects. Drawing on real practices, it demonstrates how values and principles of anti-corruption can be successfully mainstreamed throughout the international investment cycle.

The publication lays down the prerequisites for ensuring integrity in international investment projects by focusing on a range of concrete and contextualized examples and good practices from various countries and industries. Illustrated by a compilation of good practices pertaining to different phases of such projects under a "Good Practices Model (GPM)" framework (see Section 1.4 on selecting good practices for more details), the guidance follows the typical sequence of the investment cycle.

It highlights how the implementation of the Convention can benefit the quality and execution of international investment projects.

While the examples have their limitations, they clearly outline the material (such as optimal value for money and return on investment) and nonmaterial benefits (improved social outcomes) of adhering to high standards of integrity during the design and implementation of international investment projects. The intention is to highlight some of the key elements and criteria to be considered in planning and implementing international investment projects with integrity.

1.2 Structure

This publication is divided into three parts.

Chapter I introduces the **objectives and background** of the study, as well as the methodology for the definition and selection of good practices. The GPM framework is presented.

Chapter II provides an overview of the regulatory and institutional framework required to support the prevention of corruption and promote integrity in international investment projects. The chapter describes how international instruments, in particular the Convention, have shaped the procedures governing the implementation of these projects. It highlights the legislation, institutional arrangements and public policies that countries need to have in place in order for international investment projects to stand a fair chance of being implemented with integrity. Examples of good practices are included to illustrate how these prerequisites are applied.

Chapter III focuses on the common characteristics which make up the GPMs. It follows the international investment cycle from the needs assessment and project identification phase to the final utilization of the object/asset. While the project cycle may vary due to differences in the national legislation and the ownership of the asset, and the project implementation may alter according to its size, funding and complexity, most international investment projects share

many of the same characteristics. Each phase is vulnerable to corruption and risks in varying degrees. These are introduced in detail through eight GPMs which include an illustration of major good practices from each phase in the project cycle, the inherent integrity challenges, a short checklist of questions, and one or two case studies from real international investment projects. The GPMs are also a valuable addition to the emerging literature on creating assessment criteria and categories.

1.3 The Good Practices Model framework

While the GPM framework is based primarily on original research, a number of other frameworks as useful points of reference should be acknowledged: the Organisation for Economic Cooperation and Development's (OECD's) Integrity Framework for Public Investment,⁶ the Commonwealth Integrity Benchmark,⁷ the World Bank's Infrastructure Governance Assessment Framework,⁸ the IMF's Public Investment Management Assessment framework,⁹ and CoST, the Infrastructure Transparency Initiative.¹⁰

Each of these frameworks has its merits. While the OECD's framework has a specific focus on the investment cycle and the CoST initiative concentrates on data transparency and accountability, the Commonwealth benchmark and the World Bank framework take a broader view of public and civic institutional arrangements, placing international investment projects in their legal and regulatory context and their implementation in their civic and social environment.

The GPM framework devised for this publication presents practical solutions intended to promote integrity in the international investment project cycle such as how the public authorities can strengthen the accessibility and transparency of government information, enable and encourage consultation with critical stakeholders, enforce efficient supervision and cost-effective management of the project, and enhance the project's contribution to environmental stewardship and social impact.

At the centre of the GPM framework, is the cycle of the international investment project itself. As explained, there is no single recognized definition of an international investment project as projects and their processes differ. For the present publication, the project cycle is divided into the following five phases: 1) Investment project needs identification and appraisal; 2) Planning and design (pre-tender); 3) Contract awarding (tender); 4) Contract management and implementation (post-tender); 5) Evaluation and audit.

⁶ OECD (2016). Integrity Framework for Public Investment, OECD Public Governance Reviews. OECD Publishing, Paris, pp. 37–87. https://www.oecd-ilibrary.org/governance/integrity-framework-for-public-investment_9789264251762-en.

⁷ The Commonwealth Secretariat (2021). *Commonwealth Anti-Corruption Benchmarks*. Commonwealth Anti-Corruption Benchmarks (production-new-commonwealth-files.s3.eu-west-2.amazonaws.com).

⁸ International Bank for Reconstruction and Development and The World Bank (2021). *Infrastructure Governance Assessment Framework*, World Bank, Washington. DC. Infrastructure-Governance-Assessment-Framework-December-2020.pdf (worldbank.org).

⁹ IMF Infrastructure Governance, "What is PIMA". https://infrastructuregovern.imf.org/content/PIMA/Home/PimaTool/What-is-PIMA.html.

 $^{10 \}quad Infrastructure \ Transparency \ Initiative \ (CoST). \ https://infrastructure transparency.org/.$

It should be acknowledged that these classifications should be understood in a variety of ways in which international projects can be structured. And some practices are, in reality, not strictly restricted to the GPM 3 under which they have been classified. So, for example, Public Finance Management (PFM), in practice, is not restricted to GPM 3, but should be a crosscutting component across all the project phases. The GPM framework structure merely seeks to draw attention to the various phases at the points in which they have a most profound influence on project implementation.

A generalized conceptual framework, incorporating the international investment project phases and the GPMs is summarized in Table 1 below:

Table 1: The GPM framework

Phase description	Good Practice Model (GPM)	GPM Description			
Phase 1 Investment project needs identification and appraisal					
In a world of competing needs, this phase determines which projects should be prioritized and what needs to be accomplished. It enables public authorities to decide if a planned project meets the broader needs and determine its potential cost. It is critical that, at this stage, there is a careful	GPM 1. Sufficient public engagement in needs determination, project identification and appraisal.	Engage stakeholders and the society at large to ensure value for money/social outcomes; prevent corruption and undue influence; enable public oversight for needs assessments.			
determination of the ultimate benefit of an investment for the economy and society. The main activities in this stage typically include a systematic needs assessment, market analysis, stakeholder identification and consideration of funding sources.	GPM 2. Objective environmental and social impact assessment.	Ensure feasibility and objectivity through standardized environmental and social impact studies to mitigate adverse effects and integrate relevant concerns in decision-making.			
Phase 2 Planning and design (pre-tender)					
The pre-tender phase is the first phase in the procurement stage of implementing international investment projects. Besides preparing the detailed design of the project, this stage also includes preparation of contract packages, identification of procurement methods and timelines	GPM 3. Effective public financial management.	Regulations on the management of public finances are designed and implemented with transparency to ensure effective prevention of corruption, including by limiting the influence of individual operators in public-private partnerships (PPPs) and concessions.			
for various procurement activities.	GPM 4. Appropriate project specification, procurement design and vendor requirements.	Ensure that the procurement, design and project specifications in international investment projects are not restrictive or tailored and encourage fair and open competition. Ensure thorough due diligence of bidders.			

Phase description

Good Practice Model (GPM)

GPM Description



The tender phase is where the contractor is selected to implement the project. At this stage, an invitation to the tender is issued, bids are prepared and submitted by interested parties, and the winning bid is selected, following which a contract is signed for the execution of the project. This phase of the process includes bidding, bid evaluation and contract award.

GPM 5. Fair and transparent tendering process. A fair and transparent tender and bidding process, including timely and adequate dissemination of tender offers and documents, is in place to ensure that contracts are awarded to the most qualified vendor(s) and that the results of the bidding process are publicly disclosed in a timely fashion. Ensure that a fair system is in place to deal with complaints from bidders.

Phase 4 Contract management and implementation (post-tender)

The contract management and implementation stage (often referred to as the post-tender stage) refers to the implementation of the contract to deliver the procured construction, goods or services.

GPM 6. Effective internal control and oversight. Effective internal control and oversight mechanisms are in place for managing the operation and maintenance of awarded contracts (and/or assets under these contracts) to mitigate threats of corruption and fraud.

GPM 7: Clear and stringent rules and standards for project adjustment.

Establish rules and procedures for project adjustment and post-tender renegotiations (especially in the case of PPPs), including for maintenance of contracts.

Phase 5 Evaluation and audit

The final phase of the investment project is the monitoring and evaluation phase. Credible and independent internal and external audits should be able to verify the achievement of the planned outcomes, as well as audit public works projects directly.

GPM 8: Independent monitoring and auditing. Implement regulations that enable and require the independent monitoring and scrutinizing of public sector contracts, including by government audit institutions as well as civil society organizations (CSOs), professional institutions, business associations, etc.

1.4 Selection of projects

A major source of projects and good practices for this study are the evaluation reports commissioned by MDBs or other financiers. Evaluation is a critical part of the management of the project, and these reports are publicly available in the extensive online project archives of the MDBs.

A good example is the extensive information that the World Bank has published about the projects they fund, including information about contracts awarded. Within each project description is a ranking system which provides insights into performance criteria. Amongst the documents shared are project monitoring reports, post-tender audits, and various other review mechanisms. The World Bank's Independent Evaluations Group "generates evidence on operational choices to promote a stronger internal culture for results, accountability, and learning." Such reports are a rich source of information about the quality of the projects measured against certain criteria, including achievement of social and economic needs and project goals, compliance with international standards of ethics, integrity and sustainability management, adherence to timing and budget plans, and overall value for money.

In addition to the information acquired from evaluation reports, every effort has been made to enhance the study's reliability, accuracy and impartiality by comparing it, where possible, with alternative external sources.

As mentioned, the primary source of information used to compile the GPMs is publicly available information published by the MDBs or the public authorities responsible for managing and implementing the projects. The publication focuses on good practices pertaining to specific GPMs and does not seek to assess or analyse the overall level of integrity in the implementation of these projects as a whole. More detailed information is available in the specific reports cited in this study.

Table 2 summarizes the principal projects that are the sources for the GPMs. The projects are not restricted by geography or sector but have been chosen from a range of industries and regions. Specific sectors of the economy included in this study are construction, transportation, power generation, renewable energy, water, sanitation and flood defense. They are located in high-, middle- and low-income economies – Angola, Argentina, Colombia, Egypt, Indonesia, Jordan, Philippines and the United Kingdom. They span a range of project sizes, funding sources, models, and ownership structures. The key criteria for the inclusion of these projects are three-fold: (i) they seek to meet high standards of integrity; (ii) they are clearly and properly documented; and (iii) they can be a source of useful learning and provide inspiration to practitioners. A number of other projects and institutional practices are also referred to, for the sake of comparison.

¹¹ World Bank, "Projects & Operations", Database of the Wold Bank-supported projects. https://projects.worldbank.org/en/projects-operations/projects-home.

¹² Independent Evaluation Group (IEG) – World Bank Group, Independent Evaluation Group (worldbankgroup.org); IEG – World Bank Group, "Independent Evaluations & Annual Reviews", Database of evaluations and annual reviews. https://openknowledge.worldbank.org/handle/10986/2132.

Table 2: Overview of major reference projects cited in the publication

Table 2: Overview of major reference projects cited in the publication					
Dates Sector	Owners	Investors/funders	Project value (US\$ billion)	GPM	
Power Sector Reform	Support Programme, An	gola			
2014- Power 2017 Generation	Government of Angola and key public institutions: All ministries, in particular Ministry of Energy and Water (MINEA), Ministry of Finance (MINFIN)	African Development Bank (AfDB), Japan International Cooperation Agency (JICA)/Official Development Assistance (ODA)	1.2	GPM 1	
Benban Solar Park Pr	oject, Egypt				
2018- Renewable 2019 Energy	New and Renewable Energy Authority (NREA)	International Finance Corporation (IFC), Multilateral Investment Guarantee Agency (MIGA), Africa50 Investment Fund established by the African Development Bank, Asian Infrastructure Investment Bank (AIIB), European Bank for Reconstruction and Development (EBRD), Arab Bank of Bahrain, Commonwealth Development Corporation (CDC) of the United Kingdom, Europe Arab Bank (EAB), Green for Growth Fund (GGF), Finnish Fund for Industrial Cooperation Ltd (FinnFund), Industrial and Commercial Bank of China (ICBC), Oesterreichische Entwicklungsbank AG (OeEB) Austrian Development Bank, Green Climate Fund (GCF), Dutch Development Bank (FMO), Islamic Corporation for the Development of the Private Sector (ICD), IDB, Promotion et Participation pour la Coopération Économique (PROPARCO), Arab African International Bank (AAIB), Bayerische Landesbank (BLB)	4	GPM 1	
London Crossrail, UK					
2009- Transportation 2022	Cross London Rail Links (CLRL), a joint venture between Transport for London (Tfl Rail) and Department for Transport (DFT), MTR Corporation (Crossrail) Ltd	European Investment Bank (EIB), Transport for London (TfL), Greater London Authority (GLA), London businesses.	23.6	GPM 2	

Dates	s Sector	Owners	Investors/funders	Project value (US\$ billion)	GPM	
La Guajira Water and Sanitation Infrastructure and Service Management Project, Colombia						
2007– 2018	Water and sanitation	Department of La Guajira, Administración Temporal Sector de Agua Potable y Saneamiento Basico de La Guajira, Unidad Ejecutora del Programa	World Bank	0.158	GPM 3	
Renov	Ar, Argentina					
2016-	Renewable Energy	Government of Argentina, CAMMESA, Private Independent Power Producers (IPP)	Government of Argentina { (Fund for the Development of Renewable Energy (Fondo para el Desarrollo de Energías Renovables or FODER). The "Banco de Inversión y Comercio Exterior" (The Investment and Foreign Trade Bank - BICE) } International Bank for Reconstruction and Development (IBRD), International Finance Corporation (IFC), Private Sponsor's Equity and Debt.	3.2	GPM 4 and 5	
Ain So	okhna 1300 MW Si	upercritical Thermal Pov	ver Plan, Egypt			
2008– 2017	Power Generation	Egyptian Electricity Holding Company (EEHC), East Delta Electricity Production Company (EDEPC)	African Development Bank (AfDB), World Bank, Arab Fund for Economic and Social Development (AFESD), Kuwaiti Fund for Arab Economic Development (KFAED), East Delta Electricity Production Company (EDEPC)	1.36	GPM 5	
KAMA	NAVA Flood Conti	rol Project, Philippines				
2000- 2012	Flood control	Government of the Philippines, Department of Public Works and Highways (DPWH)	Japan Bank for International Cooperation (JBIC)	0.009	GPM 7	
Queer	Queen Alia International Airport (QAIA) Rehabilitation and Expansion Project, Jordan					
2007– 2016	Transportation	Airport International Group (AIG), Government of Jordan	International Finance Corporation (IFC), Islamic Development Bank (IsDB), Airport International Group's shareholders	1.850	GPM 8	

1.5 Selection of good practices

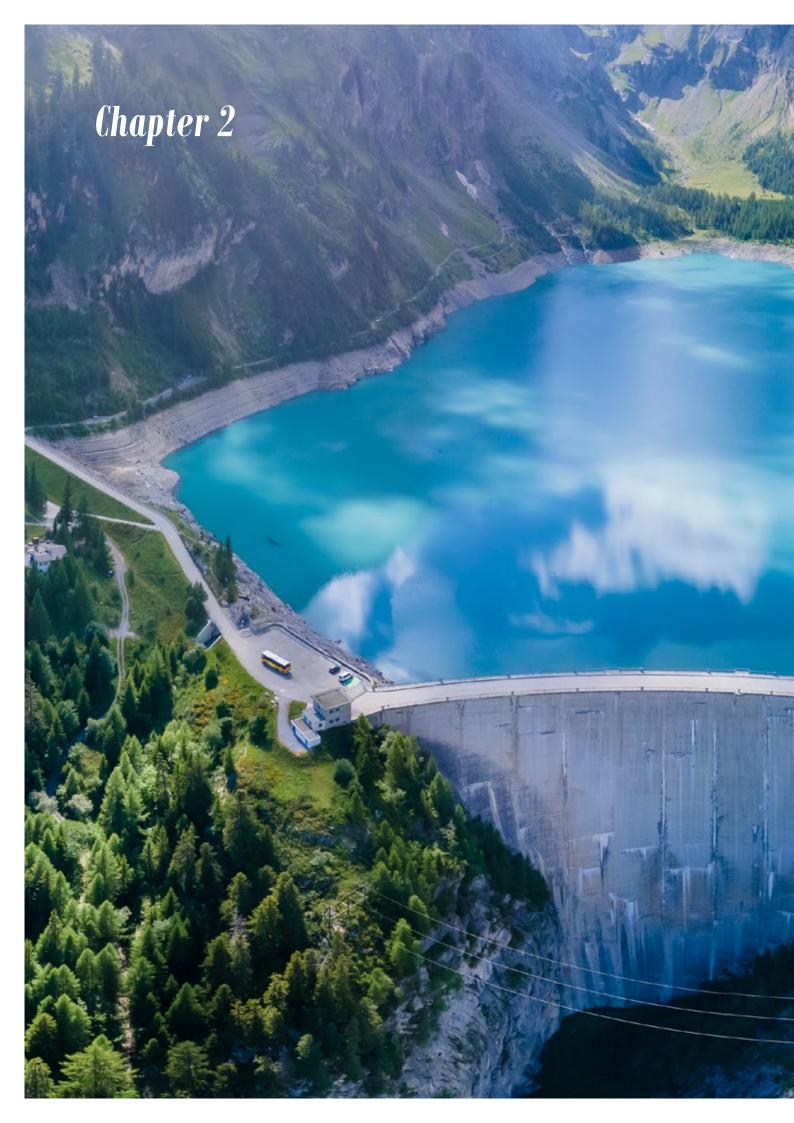
Defining a "good" practice can be challenging as it requires a formal benchmark with extensive quantitative indicators and comparative measurements. For the sake of this publication, each GPM has a checklist – a series of simple questions which demand a yes/no answer. These are the sort of questions a lender or investment manager might ask when making decisions at every phase of the project.

The checklist questions highlight the important decisions which took place in the GPM source project. A "good" practice, therefore, is one where the checklist questions are answered with a "yes". The questions are not asked in order to receive a detailed answer in each case but rather as a guide to illustrate the importance of particular decisions which underpin the good practices. The checklist is not exhaustive, and questions can be adapted to deal with real-life situations. Practitioners may also prefer to take a more nuanced approach and opt for a ratings-based approach to answering the questions.

Not all the good practices under each GPM come from a single project. Some projects may contain good practices which answer some checklist questions in the affirmative but not others. Also, the description of positive practices is often not as detailed as the descriptions of poor business practices in the project assessment and evaluation reports.

A broad understanding of a "good" practice has been used. For example, under this methodology, a public authority in a project identified a serious conflict of interest and suspended the project until the relevant individuals were removed or recused from their positions. At first glance, such a conflict of interest should be classified as a bad practice because such a serious conflict should not have been missed in the early stages of the project. However, the fact that the problem was eventually detected and acted upon before serious damage could be done can be considered a good practice as the project had the right processes in place and was able to apply them in a timely fashion. It is worth mentioning that projects that contained good practices in certain phases, but manifested corruption in other phases or in the project as a whole, as well as those that were cancelled though they had certain practices to ensure integrity, have not been included. Thus, the selection process is designed to cover projects which had gone through comprehensive processes in all phases.

In summary, the GPMs have been selected from projects which have been successfully concluded without a documented record of major abuse based upon publicly available information.





trong national legal and regulatory frameworks that conform to internationally recognized standards, such as the United Nations Convention against Corruption, provide the normative guidance for conducting international investment projects with integrity. When adequately enforced through national legislation, international legal instruments reduce corruption risks and help create an environment that is conducive to investment, including by leveling the playing field.

In addition, governments help advance integrity beyond their borders through national legislation covering international business and trading practices, such as the United States' Foreign Corrupt Practices Act, France's Sapin II Law, and the UK's Bribery Act, among others. These and other national laws of a similar nature contain provisions for ensuring integrity and tackling corruption in line with the Convention, which can be applied in the context of international investment projects.

2.1 A global anti-corruption framework

The Convention, with 189 parties as of 1 May 2023, is the only legally binding universal anti-corruption instrument. The Convention's far-reaching approach and the mandatory character of many of its provisions make it a unique tool for developing a comprehensive response to a global problem, including in the context of international investment.

The Convention covers five main areas: preventive measures, criminalization and law enforcement, international cooperation, asset recovery, technical assistance and information exchange. It provides States parties with guidance on a range of preventive measures and a requirement to embed corruption offences such as bribery and embezzlement into national law.

Several provisions of the Convention, particularly those dealing with corruption prevention, are important for ensuring integrity in international investment projects and provide government agencies as well as private sector entities with a range of tools and policies that can be deployed to this end. At the same time, provisions on criminalization and law enforcement, as well as international cooperation and asset recovery, provide the necessary framework for anti-corruption practitioners to operate worldwide and help to ensure that those who have committed corruption offences are held accountable and stolen project funds are recovered.

Preventing corruption is essential for creating an enabling and sustainable investment climate. By embedding the preventive principles or requirements laid down in Chapter II of the Convention (articles 5–14) into national laws and practices, States parties can implement effective measures to, inter alia, avoid conflicts of interest, establish appropriate systems of procurement, promote transparency and accountability in the management of public finances, increase transparency in political financing, support integrity and honesty among public officials, and promote the broader participation of society in anti-corruption efforts.

In addition, the Convention requires countries to establish a preventive anti-corruption body or bodies mandated with preventing corruption (article 6), as well as providing guidance on the regulatory and supervisory frameworks for anti-money laundering (article 14, complementary to existing standards such as the Financial Action Task Force (FATF) recommendations).

2.2 A meritocracy and open culture in public service

An important requirement to prevent corruption and ensure integrity throughout the public sector is a merit-based system for recruitment, hiring, retention, promotion, and retirement of public officials (article 7(1) of the Convention). A public sector actively seeking to facilitate international investment greatly benefits from a system whereby public officials exhibit the right skills for the job. This leads to the services provided and policies – including those for investors – in being more efficient when compared to cases where the public sector systems are not based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude.

Box 1

Good practices to promote public sector integrity identified through the IRM

In **Belgium**, the Flemish government's integrity policy for sensitive positions makes it mandatory to offer trainings on the topic of integrity and to review organizational processes by introducing a double signature system, segregation of duties and job rotations. ¹³

In **Algeria**, the National Body for Prevention and Fight against Corruption conducts regular mapping exercises to identify public positions considered especially vulnerable to corruption and implements targeted training modules for future managers and leaders in the prevention of corruption and the identification of the most common corruption modalities.¹⁴

In **South Africa**, a structured approach is implemented to promote transparency and prevent and manage conflicts of interest among different categories of public officials, including detailed disclosure requirements for public officials in high-risk areas, training and guidelines.¹⁵

¹³ Executive summary of the review of the implementation of UNCAC by Belgium during the second cycle of the IRM (CAC/COSP/IRG/II/1/Add.19).

¹⁴ Executive summary of the review of the implementation of UNCAC by Algeria during the second cycle of the IRM (CAC/COSP/IRG/II/3/1).

¹⁵ Executive summary of the review of the implementation of UNCAC by South Africa during the second cycle of the IRM (CAC/COSP/IRG/II/4/1).

In Malaysia, measures to enhance integrity in government agencies and government-linked companies make it mandatory for these entities to set up Integrity Units that have been categorized according to their levels of corruption risk. The Malaysian Anti-Corruption Commission (MACC) initiated the Integrity Assessment on Public Service in Malaysia (MyIA) to strengthen and promote integrity and enhance the public service delivery system as a whole. MACC's relevant panels and committees also issue annual reports and carry out surveys of public perception of the integrity and effectiveness of public service. ¹⁶

Furthermore, merit-based systems are also helpful in creating an open organizational culture where integrity and the prevention of conflicts of interest are actively enhanced, and employees are encouraged to raise ethical concerns. Under article 8 of the Convention, States parties are required to actively promote, inter alia, integrity, honesty and responsibility among their public officials, including through codes or standards of conduct for the correct, honourable and proper performance of public functions.

In particular, the professionalization of procurement functions, adequate and regular training and rotation of staff, separation of procurement-related key functions, and increased transparency of procurement management supported by effective reporting, accountability and prevention of conflict-of-interest frameworks, and financial disclosure requirements can help enhance integrity in the public sector. Box 1 (above) showcases examples of good practices identified during the second cycle of the IRM, focusing on the implementation of chapter II (preventive measures) of the Convention.

2.3 Lobbying, political financing and elections

In addition to effectiveness and meritocracy in the public sector, the Convention urges States parties to consider implementing laws and administrative measures that enhance the transparency of financing of election campaigns and political parties (article 7(3)). The absence of such regulations can create additional integrity risks for society as well as for international investors. These may include the occurrence of conflicts of interest or the risk of getting trapped in clientelism. Donations to political parties by firms that are involved in public contracts, for example, can reduce the overall efficiency of the delivered goods or services. This can lead to undesirable phenomena such as undue influence on procurement design or favoritism in awarding new government contracts. Scenarios where elected officials alter decision-making and seek to serve private interests, which may contribute to their (re-)election or that are used to maintain and extend their hold on power pose real risks for investors and governments alike.

¹⁶ Executive summary of the review of the implementation of UNCAC by Malaysia during the second cycle of the IRM (CAC/COSP/IRG/II/1/1/Add.2).

Box 2

Examples of good practices to prevent undue political interference

In 2014, **Georgia** committed to publishing relevant reports and statistics about political parties on the website of the State Audit Office (SAO). The SAO publishes regular reports detailing party incomes and expenditures and the names and ID numbers of individual contributors in user-friendly formats. The data are used by a range of stakeholders, including local anti-corruption groups that collect data and analyse the relationship between donations received by political parties and correlate these to the awarding of procurement contracts.¹⁷

In the **Kingdom of the Netherlands** anonymous donations, gifts or loans of a monetary nature above the threshold (Euro 1,000), or in kind from national or foreign legal persons to political parties are prohibited, ¹⁸ while **France** has established a digital public register of lobbying activities. ¹⁹

In **Palau**, contributions to political parties include monetary, non-monetary and in-kind contributions and the Public Auditor is required to audit campaign statements filed by candidates and conduct random audits of other statements (sect. 11 of the Code of Ethics Act). Reports and statements on campaign fundings filed are public records (title 33, sect. 613, Palau National Code).²⁰

Georgia provides a good practice example in curbing the influence of political interference and corruption in government contracting. The country has worked on increasing the transparency of party finance data (see Box 2).²¹ This has enabled civil society organizations (CSOs), media or business associations to use such data for participatory monitoring purposes, reporting and advocating reform. Another example is the registry of gifts and donations that has been established in Argentina²² where public officials have to register any small courtesy or diplomatic gifts. The IRM also provides examples from other countries of how lobbying and other financial incentives can be constrained in order to minimize private interests and ensure transparent decision-making in public projects.

¹⁷ International Institute for Democracy and Electoral Assistance (International IDEA), "Political Finance Transparency," March 2019. https://www.idea.int/sites/default/files/publications/political-finance-transparency.pdf.

¹⁸ International Institute for Democracy and Electoral Assistance (International IDEA), Country page. https://www.idea.int/data-tools/country-view/227/55.

¹⁹ Executive summary of the review of the implementation of UNCAC by France during the second cycle of the IRM (CAC/COSP/IRG/II/2/1/Add.22).

²⁰ Executive summary of the review of the implementation of UNCAC by Palau during the second cycle of the IRM (CAC/COSP/IRG/II/3/1/Add.4).

²¹ International Institute for Democracy and Electoral Assistance (International IDEA), "Political Finance Transparency", March 2019. https://www.idea.int/sites/default/files/publications/political-finance-transparency.pdf; Transparency International Georgia, Donations received by Georgian political parties: statistics and alleged cases of political corruption, 29 October 2021

²² Argentina introduced an online platform, "Register Gifts and Trips as a Public Official", for public officials to register third-party gifts and trips. The online platform can be accessed here: https://www.argentina.gob.ar/servicio/registrar-obsequios-y-viajes-como-funcionario-publico.

2.4 Conflicts of interest

The Convention stipulates that countries should actively promote transparency and prevent conflicts of interest, including by instituting disclosure requirements and training public officials in recognizing and managing such situations. According to articles 7(4) and 8(5), States parties shall "endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest" and "endeavor, ... to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials". Article 9(1) (e) of the Convention requires States parties to take "measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements". The availability of such information can help procuring authorities ensure that there is no conflict of interest. Where registers for relevant declarations are publicly available, these may help ensure broader public oversight over government spending.

Implementation of these provisions by States parties through domestic legislation/regulation or direct application is critical. Sanctions, such as debarring offending firms from public procurement and disciplinary action against individuals found to be in breach, can make a significant contribution to creating an ethical environment for international investment projects.

Romania's PREVENT system²³, described in Box 3, is an example of how a relatively simple and low-cost policy can have a profound impact on international investment project implementation.

Box 3

How Romania's PREVENT system reduces the risk of conflicts of interest

Romania's National Integrity Agency (ANI), which verifies asset declarations of around 300,000 public officials, including the President, members of Parliament, judges, and other elected officials, recently introduced standardized asset and interest declaration (AID) forms "for a wide range of public officials, together with a verification mechanism focused on detecting and sanctioning unjustified variations of wealth, conflicts of interest and incompatibilities.

Transparency has been critical to the system's effectiveness, and disclosure forms are published on the ANI website, where other stakeholders can access the information. ANI's work is also focused on prevention, most notably through the so-called PREVENT system",

²³ World Bank (2020). "Enhancing Government Effectiveness and Transparency: The Fight Against Corruption", World Bank, Washington, D.C., p. 238–247. https://documents1.worldbank.org/curated/en/235541600116631094/pdf/Enhancing-Government-Effectiveness-and-Transparency-The-Fight-Against-Corruption.pdf.
OSCE (2022). "Developing a Positive Climate for Business and Investment: A Best Practice Guide". OSCE Secretariat, Vienna. https://www.osce.org/files/f/documents/7/d/518247_0.pdf.

an *ex-ante* control system that can issue early warning signals to contracting authorities about potential conflicts of interest in procurement procedures.

PREVENT's so-called "integrity warning" is sent to both ANI and the authority involved in the procurement. From mid-2017 to early 2020, 47,571 procurement procedures were reviewed by the system. ANI issued over 120 warnings for potential conflicts of interest in procurement procedures with a cumulative value of more than 274 million euros. In 96 percent of the cases, preventive measures were taken by the contracting authorities, and ANI initiated formal procedures for the remaining cases. In order to manage the workflow and number of declarations received in hard copy (typically around 400,000 annually and approximately 1.4 million in an election year), it recently introduced e-forms that include a bar code for enhanced data management and verifiability.

2.5 Reporting acts of corruption

Another important instrument to promote integrity in international investment projects is effective reporting or whistle-blowing mechanisms whereby corruption or other unethical breaches are reported to competent authorities. Article 8(4) of the Convention stipulates that countries should consider establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities. Article 33 also highlights the necessity to provide adequate protection for persons making such reports. In addition, article 13(2) of the Convention requires States parties to take appropriate measures to ensure that relevant anti-corruption bodies are known to the public and to provide access to such bodies for reporting, including anonymously, of any incidents that may be considered to constitute a corruption offence.

Such systems are often an essential part of the national anti-corruption framework and, in many cases, are enshrined in national law. In some jurisdictions, these laws also make provisions for the establishment of dedicated organizations to handle reports from whistle-blowers and to offer whistle-blower protection.

Whistle-blower mechanisms can also be effective when embedded inside a large corporation or in a specific project. In such cases, they may support contractors and project consortia to better manage integrity risks and prevent legal proceedings, reputational damage, or a loss of investment because of unethical or illegal conduct by involved employees or companies.²⁴ For more information on reporting on corruption, please refer to the UNODC publications "Reporting on Corruption: A Resource Tool for Governments and Journalists"²⁵, "Resource Guide"

²⁴ PRI Association. "Whistleblowing: why and how to engage with your investee companies", 9 December 2020. https://www.unpri.org/sustainability-issues/environmental-social-and-governance-issues/governance-issues/whistleblowing.

²⁵ UNODC. Reporting on Corruption: A Resource Tool for Governments and Journalists, United Nations Publication, 2013. https://www.unodc.org/documents/corruption/Publications/2013/Resource_Tool_for_Governments_and_Journalists_COSP5_ebook.pdf.

on Good Practices in the Protection of Reporting Persons"²⁶ and "Speak Up for Health! Guidelines to Enable Whistle-blower Protection in the Health-care Sector".²⁷ The examples of Belgium's Code of Conduct and Panama's award-winning reporting system (Box 4) demonstrate how governments have successfully introduced reporting and whistle-blowing systems in recent years.

Box 4

Examples of approaches to raising standards of conduct in public administration

In 2021, the Open Government Partnership gave **Panama** an award for its reporting system called hotline 311. "Using the 311 complaints hotline, the [G]overnment can respond to the needs of citizens in an easy, fast, and confidential way to address cases of corruption in public services throughout Panama. The authorities subsequently used the information received through the Hotline to develop corrective measures and have seen the numbers of resolved cases rise dramatically. In 2018, citizens submitted more than one million cases via phone calls, mobile app submissions and other convenient methods, and the [G]overnment responded and resolved 90 per cent of them." ²⁸

Belgium established a reporting mechanism for actions committed by Belgian companies abroad that may constitute corruption offences.²⁹ The Belgian Embassy in the country where the offence is alleged to have been committed transmits the report to the Ministry of Foreign Affairs, which in turn transmits it to the Federal Prosecutor's Office. The Government of Flanders, Belgium published a Code of Conduct that sets out the general principles, rules and agreements with which staff members must comply. The section entitled "Reporting irregularities" describes what staff can and should do if facing an ethical dilemma or a more serious irregularity, including how to report it. There are also ethics officers in each department to whom staff can go in confidence with questions or to seek more information about what to do in specific circumstances. This approach combines both the preventive value of encouraging staff to speak up early and the potential for serious irregularities, misconduct or criminality to be detected once they occur.³⁰

Nigeria's Corrupt Practices and Other Related Offences Act obliges public officers to report any offer, promise of giving or solicitation of an undue advantage. The Corrupt Practices and Other Related Offences Commission has established the Anti-corruption and Transparency Units (ATCUs) within Ministries, Departments and Agencies (MDAs) to facilitate reporting and improve integrity standards within MDAs. Nigeria has also adopted a whistleblowing policy that outlines measures

²⁶ UNODC. Resource Guide on Good Practices in the Protection of Reporting Persons, United Nations Publication, 2015. https://www.unodc.org/documents/corruption/Publications/2015/15-04741_Person_Guide_eBook.pdf

²⁷ UNODC. Speak Up for Health! Guidelines To Enable Whistle-blower Protection in the Health-care Sector, United Nations Publication, 2021. https://www.unodc.org/documents/corruption/Publications/2021/Speak_up_for_Health_-_Guidelines_to_Enable_Whistle-Blower_Protection_in_the_Health-Care_Sector_EN.pdf.

²⁸ Open Government Partnership. "2021 OGP Impact Awards: Panama – Hotline 311", 15 December 2021. https://www.opengovpartnership.org/stories/2021-ogp-impact-awards-panama-hotline-311/.

²⁹ Executive summary of the review of the implementation of UNCAC by Belgium during the second cycle of the IRM (CAC/COSP/IRG/II/1/1Add.19).

³⁰ Ibid. 26, p. 34-35.

to protect the identity of whistle-blowers, but this has yet to be codified. The Public Interest Disclosure and Witness Protection Bill would criminalize acts of reprisal.³¹

North Macedonia has adopted the Law on Whistleblower Protection, which provides for a wide range of protections for reporting persons, including public officials. Specialized hotlines for reporting are in place, and authorized persons have been designated in public-sector entities to receive reports on irregularities and corrupt conduct. Suspicions of corruption may also be reported directly to the State Commission for the Prevention of Corruption SCPC, including anonymously.³²

Sierra Leone established Integrity Management Committees in all ministries, departments and agencies to facilitate reporting by public officials.³³

2.6 Participation of society

The wider public has a critical role to play in both corruption prevention and detection in international investment projects. Public oversight by citizens and CSOs can reveal a wealth of information around cases of corruption.

Article 13 of the Convention stipulates that States parties should implement appropriate measures to promote the participation of individuals and groups outside the public sector in the prevention of and fight against corruption, and raise public awareness regarding corruption risks and effects. The role of modern information and communication technologies (ICT) to foster such participation is increasingly recognized.³⁴ In particular, the proactive disclosure of government data in open data standards has gained significant momentum over the past years.

Ensuring that the public has adequate access to this information is critical for involving various civic actors. Specifically, freedom of information laws could mandate that government information is shared in an open, machine-readable format by default, allowing stakeholders to access the data and apply innovative tools such as algorithms and machine-learning to detect anomalies in government spending.

³¹ Executive summary of the review of the implementation of UNCAC by Nigeria during the second cycle of the IRM (CAC/COSP/IRG/II/1/Add.16).

³² Executive summary of the review of the implementation of UNCAC by North Macedonia during the second cycle of the IRM (CAC/COSP/IRG/II/2/1/Add.13*).

³³ Executive summary of the review of the implementation of UNCAC by North Macedonia during the second cycle of the IRM (CAC/COSP/IRG/II/1/1Add.14).

³⁴ United Nations, Conference of the States Parties to the United Nations Convention against Corruption, Working Group on the Prevention of Corruption. Background paper prepared by the Secretariat. The use of information and communications technologies to implement the United Nations Convention against Corruption. 3 June 2016. CAC/COSP/WG.4/2016/2 https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/workinggroup4/2016-August-22-24/V1603242e.pdf.

In relation to this, articles 10 and 13 of the Convention require States parties to take measures to enhance transparency in their public administration, including with regard to their organization, functioning and decision-making processes, and to promote the contribution of the public to decision-making processes. This has an important implication for the design and implementation of international investment projects, as illustrated in GPM 1.

The example of CSOs' participating in auditing government spending in the Philippines (which is explained in greater detail in GPM 7) shows how citizen engagement can improve public services. Similarly, such principles also apply to international investment projects and are discussed in detail in GPM 4.35

2.7 Further actions that support the overall integrity of international investment projects

Digitalization of procurement

E-procurement is now widely available in most countries of the world. Its anonymity – i.e. connecting buyers and sellers without necessarily interacting personally, limits opportunities for corruption. It has also been shown to have considerable advantages towards promoting inclusiveness, openness, and speed.

Yet, e-procurement does not resolve all challenges related to ensuring a fair and transparent tendering process. For example, e-procurement focused on the actual bid often favours the larger bidders. In recent years, the European Bank for Reconstruction and Development (EBRD) has been investing in technical assistance funds to support public procurement authorities in opening public tenders to a wider range of companies by simplifying tender procedures such as registration and pre-qualification criteria and providing "e-marketplace" interface for standard products.³⁶ The Prozorro procurement system in Ukraine is an example of a successful collaboration between local authorities and CSOs.³⁷

A background paper for the 13th Session of the Open-ended Working Group on Prevention under the Conference of States Parties to the United Nations Convention against Corruption held in 2022 highlighted a range of good practices on the use of information and communications technologies to promote integrity in public procurement as well as transparency and accountability in the management of public finances.³⁸ States parties highlighted that electronic

³⁵ Open Government Partnership. "2021 OGP Impact Awards: Philippines – Citizen Participatory Audit, Open Government Partnership," 15 December 2021. https://www.opengovpartnership.org/stories/2021-ogp-impact-awards-philippines-citizen-participatory-audit/.

³⁶ EBRD, "Public Procurement Technical Cooperation". https://www.ebrd.com/what-we-do/sectors/legal-reform/public-procurement/technical-cooperation.html.

 $^{37 \}quad \text{ProZorro online public procurement platform. https://prozorro.gov.ua/en.} \\$

³⁸ CAC/COSP/WG.4/2022/2; see also a conference room paper prepared by the secretariat for the 13th session of the Openended Working Group on Prevention (CAC/COSP/WG.4/2022/CRP.2).

public procurement platforms allowed, inter alia, access to information by tenders, including contract notices, tender documents, award decisions, estimated and actual value of contracts, number of bids, highest and lowest bids, names of contractors, terms of contracts and tracking of contract implementation, thus reducing the risks of corruption and conflicts of interest.

Aside from reducing integrity risks, digitalization can also contribute to better data retention around public spending. An entire procurement process, from tender announcement to the request for proposals, and from the announcement of bidding results to the management of grievances or complaints procedures, can all be done electronically. This significantly enhances consistency and transparency, especially when data are publicly accessible and allows for easy reuse (for example, using a standardized data format like the Open Contracting Data Standard – OCDS). Subsequently, financial information from tenders, such as price, volume, and duration, can be collated and stored in a central registry, making the statistical information available for government analysts and auditors. In an increasing number of governments, public spending data are also made publicly available to enhance public scrutiny, including by using OCDS and the CoST's Infrastructure Data Standard. Governments have had some success in using large procurement databases to identify corruption vulnerabilities.³⁹

They are aided by new technologies such as blockchain⁴⁰ and artificial intelligence which are increasingly being used in public procurement to detect irregularities, including corruption. For example, the use of artificial intelligence to help civil society observers analyse large quantities of data is being piloted through the Prozorro-linked platform, the Dozorro platform, where each system participant (supplier, customer, regulatory body, citizen) can give feedback to the government customer or supplier, discuss and evaluate the terms of a specific procurement, analyze the procurement of an individual government body or institution, prepare and submit an official appeal to regulatory authorities and much more.⁴¹

These innovative methods for detecting irregularities, which include the mining of collected data for fraud-and-corruption-related indicators, are one of the new frontiers in the fight against corruption, and reinforce the importance of gathering data in an accessible, standardized format.

International cooperation

Corruption is not confined by borders, and the success of anti-corruption efforts ultimately depends on the ability of relevant authorities to work together transnationally. For international investment projects to thrive, international cooperation in preventing, detecting, investigating and prosecuting corruption is critical.

³⁹ Aly Abdou, Olivier Basdevant, Elizabeth David-Barrett, Mihaly Fazekas, "Assessing Vulnerabilities to Corruption in Public Procurement and Their Price Impact", IMF Working Paper No. 2022/094 (May 2022). World Bank, Washington, DC. https://www.imf.org/en/Publications/WP/Issues/2022/05/20/Assessing-Vulnerabilities-to-Corruption-in-Public-Procurement-and-Their-Price-Impact-518197.

⁴⁰ International Development Bank and Workd Economic Forum (2020), Exploring Blockchain Technology for Government Transparency: Blockchain-Based Public Procurement to Reduce Corruption. https://www3.weforum.org/docs/WEF_Blockchain_Government_Transparency_Report.pdf.

⁴¹ Dozorro monitoring platform. https://dozorro.org/.

Box 5

The China-Lao PDR Railway project demonstrates the benefits of international cooperation in preventing corruption

As an integral part of the flagship China – Lao People's Democratic Republic (Lao PDR) Railway project, the supervisory bodies of China and Laos worked jointly to prevent corruption. Both sides committed to carrying out joint inspections intended to prevent corruption during construction and to remedy any potential cases of unethical conduct.

The two countries conducted training to enhance bilateral anti-corruption cooperation and formulated a joint anti-corruption supervision mechanism that fully covered all stages of the project. Particular attention was paid to potential red flags in the project process, such as materials purchase, tendering and bidding and project adjustments.

According to the two countries' governments, this effort paid off: over 22 bids worth 17.25 billion yuan (approx. US \$2.5 billion) were completed with no evidence of bid rigging or illegal sharing of confidential tender information. Procurement of materials and equipment worth 1.655 billion yuan (approx. US \$230 million) was concluded without any complaints on quality or quantity. A number of project managers benefited from the training which enhanced their skills in managing corruption risk in large infrastructure projects.

The example of China and Lao PDR working together in this flagship transportation project illustrates how international cooperation contributed to reducing the risk of corruption throughout the project. 42

The Convention attributes great importance to international cooperation in combating corruption. Article 5(4) of the Convention requires States parties to collaborate with each other as well as with relevant international and regional organizations in promoting and developing effective anti-corruption policies and practices. Also, Chapter IV (articles 43-50) stipulates that countries shall cooperate and assist each other by putting in place appropriate systems for law enforcement cooperation, extradition and mutual legal assistance.

International organizations such as UNODC and the OECD and international forums such as the G20 Anti-Corruption Working Group have enabled countries to agree on many principles and guidelines for the prevention of corruption. There is a broad range of joint activities, technical assistance, capacity-building and training.⁴³

Whether for prevention, detection, investigation or enforcement, governments' ability to exchange information is crucial to their capacity to pre-empt or react to any instances of

⁴² Wang Keju, "China, Laos vow rail without corruption", China Daily, 22 April 2019. http://www.chinadaily.com.cn/global/2019-04/22/content_37460841.htm and Deng Hao, "Belt and Road a path to clean governance", China Institute of International Studies, 3 July 2019.

⁴³ For example, OECD (2020). Responsible Business Conduct and Anti-Corruption Compliance in Southeast Asia – Practices, Progress and Challenges. https://www.oecd.org/corruption/anti-corruption-business-integrity-southeast-asia.htm

corruption and fraud, especially those of a transborder nature. An appropriate legal mechanism that enables smooth international cooperation is a must-have alongside an effective public procurement framework.

Inter-agency cooperation linking anti-corruption and investment policies

The work of anti-corruption authorities can also support the reputation of a country as an investment destination. The Convention contains guidance in this context. Among others, article 38 requires States parties to take measures as may be necessary to encourage cooperation between its domestic authorities.

The case study from Italy in Box 6 demonstrates how the Anti-Corruption Agency's involvement in a business issue protects the country's brand, and the benefits of partnering with the Investment Promotion Agency (IPA) which plays a vital role in supporting the government's anti-corruption policies and initiatives. National IPAs are tasked with attracting foreign investment, including by offering tax incentives or other State support such as grants and loans. They often are one of the first national actors to engage with foreign investors and, therefore, are both at risk for corrupt demands as well as in a position to instill strong integrity norms early on. Yet, investment officers often lack knowledge on anti-corruption, while anti-corruption officials are not fully aware of how investment projects are planned and delivered. Hence, inter-agency cooperation linking the two is highly desirable. IPAs would gain from internal compliance programmes and training; while anti-corruption authorities will benefit from their IPA colleagues proactively disclosing the national long-term investment outlook and how anti-corruption regulations play into that context.

Box 6

Anti-corruption and investment promotion agencies working together

Italy's experience with hosting EXPO MILAN 2015, led it to develop a model to manage large/ad hoc procurements with the OECD.⁴⁴ The Government set up a brand-new system of preliminary controls for the procurement of all EXPO contracts.

The organization of EXPO MILAN 2015, which involved the construction of a 12 million-square-foot exposition site as well as other related infrastructure, required extensive preparation involving all public bodies of Italy. In preparation for the event, the National Anticorruption Authority of Italy (ANAC) was committed to supervision and guaranteeing the fairness and transparency of the procurement procedures related to the implementation of the event.

⁴⁴ OECD (2016). High-Level Principles for Integrity, Transparency and Effective Control of Major Events and Related Infrastructures. OECD Publishing, Paris. https://www.oecd.org/gov/ethics/High-Level_Principles_Integrity_Transparency_Control_Events_Infrastructures.pdf.

To enable the performance of these duties, a legal act gave the President of ANAC the power to make proposals to the Italian Government as well as to issue recommendations and instructions to all bodies participating in the preparations, including a contracting authority. Also, as part of this assignment, ANAC established a special operational unit (UOS) to monitor the projects of the event.

Establishing ANAC as an oversight body for EXPO 2015 changed the existing governance structure and triggered additional inter-institutional arrangements, such as bestowing greater compliance and supervisory responsibilities on the entity responsible for the exhibition. ANAC was responsible for issuing a prior visa of procurement processes, taking into consideration the legitimacy of the tendering and awarding process, and with the establishment of the UOS, several rules, procedures and control mechanisms were set to monitor and exercise "a priori" control of the procurement processes.

In Fiji, the national anti-corruption agency joined forces with the national investment promotion agency (IPA).⁴⁵ The national IPA 'Investment Fiji', together with the Fiji Independent Commission Against Corruption (FICAC), joined the national anti-bribery campaign. The staff of the IPA frequently receive training in recognizing and managing corruption risks in investment projects. Such risks may also include pursuing short-term, ad-hoc projects that do not necessarily fit the long-term investment plans or needs.

Other examples of collaboration between anti-corruption authorities and investment promotion agencies can be found in **Colombia**, where from 2014 to 2017, *ProColombia* (the national IPA) worked with the Ministry of Finance and the OECD on workshops for investors, chambers of commerce and business organizations to educate these actors on the OECD Anti-Bribery Convention, which Colombia had recently become party to.⁴⁶

Public-private dialogues and collective action with business

The Convention recognizes this need and requires States parties to foster a cooperative relationship with the private sector. Business organizations and professional associations are known to play an essential role in supporting their members in the fight against corruption and are encouraged to assist companies, particularly small and medium enterprises (SMEs), with the development of internal controls, ethics, and compliance programmes to prevent and detect (foreign) bribery.⁴⁷

⁴⁵ Investment Fiji Pledges to Anti-corruption. UNDP, 21 April 2022. https://www.undp.org/pacific/press-releases/investment-fiji-pledges-anti-bribery-goals.

⁴⁶ Inaki Albisu Ardigo (2018). Best Practices in Business Integrity Support Provided by Investment Promotion Agencies. Bergen: U4 Anti-Corruption Resource Centre, Chr. Michelsen Institute (U4 Helpdesk Answer 2018:16) p. 6, https://knowledgehub.transparency.org/assets/uploads/helpdesk/investment-promotion-agencies-2018.pdf.

⁴⁷ Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions. OECD Legal Instruments, OECD/LEGAL/0378, Adopted on: 26 November 2009, Amended on: 26 November 2021. https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0378.

It should also be noted that under articles 12, 13 and 39 of the Convention, States parties are required to take measures to prevent corruption involving the private sector, including promoting cooperation between law enforcement agencies and private entities; promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities and their active participation in the prevention and fight against corruption; and, to raise their awareness regarding the existence, causes and gravity of and the threat posed by corruption. If translated into action and institutionalized through anti-corruption policies and proper capacity, these provisions provide a solid basis for enhancing the private sector's role in addressing corruption in investment projects and activities.

In addition, as per OECD recommendations, business associations can provide important advice and support on ways to resist extortion and bribe solicitation. This is often done by convening policy dialogues with government agencies which can help drive policy development. Enforcement and compliance come easier where there is consensus on the principles of business integrity. Monitoring of public tenders and project implementation in the form of collective action and Integrity Pact ensure adherence to these standards. Successful examples include the Vietnamese Government-Business Integrity Initiative, the Business Integrity Initiative in Kenya, the Ukrainian Network of Integrity and Compliance (UNIC), the APEC SME Integrity Initiative and the MACN. Examples of Integrity Pacts are quoted in GPM 5.

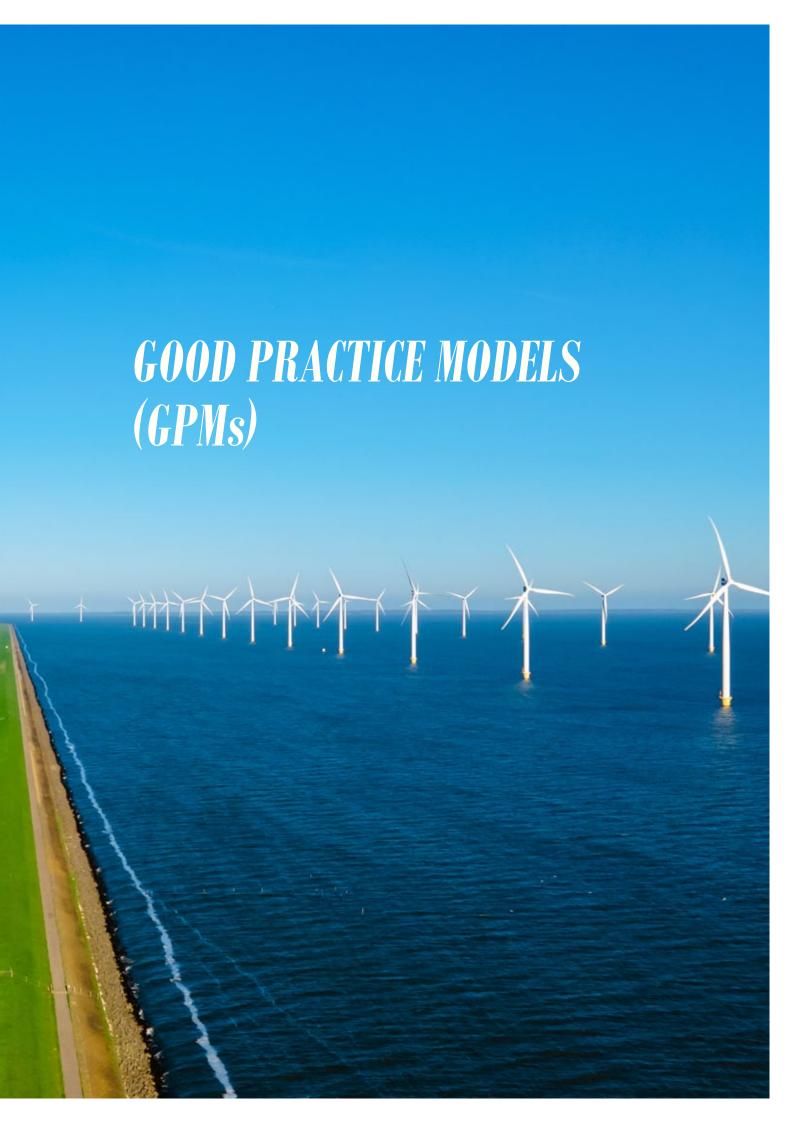
Engaging stakeholders and enabling citizen participation

Strategically identifying investment needs across multiple sectors and locations in a specific time period minimizes arbitrary and uncoordinated procurement and/or the abuse of emergency/last-minute procurement. Input from stakeholders and the public is vital to avoid poor planning, inefficient use of resources, and integrity risks such as corruption and fraud in the delivery of projects.

Laws and mechanisms that ensure effective and systematic participation of all relevant stakeholders at all stages of the formulation and implementation of long and medium-term national investment plans are essential. Such mechanisms ensure that the planning of investment projects is in line with the strategic development objectives and that it is led by consensus. Multi-stakeholder platforms for planning and assessing national investment needs in consultation with affected communities, business associations and other stakeholder groups can enhance the economic efficiency, beneficial social impact and governance of large-scale strategic investments.

The above approach is in line with the requirements of articles 5(1) and 13 of the Convention. These provisions require States parties to promote public participation and engagement in the prevention and fight against corruption, in particular through promoting the participation of the public in the decision-making processes. Strategic planning and transparency are among the main principles of the investment policy framework, aiming to reduce uncertainty and facilitate public-private dialogue while increasing accountability. In turn, accountability bolsters a sound investment environment where investment planning and management are carried out responsibly.





his chapter describes eight good practice models (GPMs) through the life cycle of an international investment project (described in table 1). There is an introduction to the role of the phase in the cycle, the applicable Convention requirements, and a brief presentation of the relevant GPMs. Each GPM includes a description of its significance in contributing to delivering the phase with integrity, some of the challenges, a good practice checklist, the reference projects and their good practices, conclusions, lessons learned and a short bibliography. For more information about the methodology, see Chapter 1.

PHASE 1 INVESTMENT PROJECT NEEDS IDENTIFICATION AND APPRAISAL PHASE 2 PLANNING AND DESIGN (PRE-TENDER) PHASE 3 **CONTRACT AWARDING** (TENDER) PHASE 4 **CONTRACT MANAGEMENT AND IMPLEMENTATION** (POST-TENDER) PHASE 5 **EVALUATION AND AUDIT**

Phase 1 Phase 2 Phase 3 Phase 4 Phase 5

PHASE 1: PROJECT NEEDS IDENTIFICATION AND APPRAISAL

It is in this phase that it is decided if a planned project meets prioritized needs, and what it could potentially cost. It is critical that, at this stage, there is a careful determination of the ultimate benefit of the object or facility for the economy and the society. The main activities in this stage typically include a systematic needs assessment, market analyses, and identification of the stakeholders and sources of funding.

At the heart of the project is public engagement, which is embodied in several articles of the Convention, notably articles 5, 10 and 13, as elaborated before in Chapter 2:

Article 5(1) stipulates that each States parties shall maintain "coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability."

Article 10(a) requires States parties to adopt "procedures or regulations allowing members of the general public to obtain, ... information on the organization, functioning and decision-making processes of its public administration".

Article 13 is specifically about participation of society and stipulates: "This participation should be strengthened by such measures as: a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes; b) Ensuring that the public has effective access to information."

The two GPMs under this phase look at the needs appraisal process and, in particular, the engagement of the public from two different angles, both of which have a direct bearing on the ability of the project managers to maintain a high level of integrity throughout the investment and project delivery cycle. GPM 1 elaborates on how projects in Egypt and Angola successfully assessed the needs of a broad range of stakeholders and beneficiaries. GPM 2 looks at how a project in the United Kingdom enhanced the environmental and social assessment by placing sustainability at the centre of its project strategy.

GPM 1:

Sufficient public engagement in needs determination, project identification, and appraisal

Engagement of stakeholders and the society at large to ensure value for money/social outcomes; prevent corruption and undue influence; and, enable public oversight for needs assessments in international investment projects.

Stakeholder engagement has been recognized as an essential component for curbing corruption, including in international investment projects. Several MDBs, such as the EBRD, the International Bank for Reconstruction and Development (IBRD) and the International Finance Corporation (IFC), have established regulations and procedures to ensure that investment projects they co-finance take into consideration the views of a wide range of stakeholders to ensure that project needs are aligned with those of the envisioned beneficiaries,⁴⁸ and that supported projects benefit society as a whole and do not serve narrow private interests. "Stakeholders" can include anyone impacted by the project, ranging from local communities that are in close geographical proximity, to populations that may experience secondary repercussions – both positive and negative – from the project, to a wider range of organizations and individuals such as businesses, industrial or sectoral associations, civil society and, depending on the size and social significance of the project, the public at large.

The EBRD's policy is typical of those of MDBs: The EBRD's needs appraisal requires the borrower "to classify stakeholders potentially affected by and/or interested in the projects, disclose sufficient information about the impacts and issues arising from the projects and consult with stakeholders in a meaningful and culturally appropriate manner. In particular, the EBRD requires its clients to engage with relevant stakeholders, in proportion to the potential impacts associated with the project and level of concern."⁴⁹

Stakeholder engagement serves to mitigate corruption and integrity risks since such consultations enable public oversight through soliciting the involvement of and scrutiny by a broader group of non-governmental stakeholders while at the same time helping to assure that the public has the opportunity to assess the need for the project and its benefits on an informed and timely basis. Besides the general public, meaningful public engagement also helps ensure

publications/eib-environmental-and-social-standards.

⁴⁸ EBRD (2019). Environmental and Social Policy, 25 April 2019. https://www.ebrd.com/news/publications/policies/environmental-and-social-policy-esp.html;

International Finance Corporation. Performance Standard 1: Assessment and Management of Environmental and Social Risks and Impacts (2012), 1 January 2012. https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards/ps1;

European Investment Bank (2018). *Environmental and Social Standards*, 18 October 2018. https://www.eib.org/attachments/strategies/environmental_and_social_practices_handbook_en.pdf;
European Investment Bank (2022). *Environmental and Social Standards*, 3 February 2022. https://www.eib.org/en/

⁴⁹ EBRD (2014). Environmental And Social Policy, 7 May 2014, para. 34, p. 5. https://www.ebrd.com/downloads/research/policies/esp-final.pdf as cited in Environmental & Social Impact Assessment for 30 MW PV Power Plant Benban Solar Park, Aswan Governorate, Egypt, April 2017, p. 220. https://www.miga.org/sites/default/files/archive/Documents/SPGDisclosures/MMID%2030%20Benban%20-ESIA%20Final%20Report.pdf.

that businesses – potential investors and other interested parties have access to necessary information on the project's overall objective.

Drawing on their specific expertise or interests, consultations with different stakeholders such as potential bidders, business associations, or local communities and CSOs at the project needs identification and appraisal phase can support the provision of better terms of reference for a project at a later stag. They also limit the risk that technical and financial specifications are defined wrongly or subjected to undue influence. These groups may provide the public authority with valuable information about other, potentially more cost-effective solutions and innovative technologies capable of resolving the problem and delivering the expected benefits.

Journalists, academics, CSOs, the affected communities and the public at large can also play an instrumental role in observing the economic, social and environmental impacts of an investment project relative to its intended benefits, as well as providing overall oversight over the project needs identification and appraisal phase through monitoring and raising concerns about suspicious or corrupt activity. Hence, engagement with these groups and individuals limits opportunities for corruption, fraud and vested interests.

This GPM looks into the good practices of stakeholder engagement in the project needs identification and appraisal phase within two projects: the Angola Power Sector Reform Support Programme and the Benban Solar Park.

Angola Power Sector Reform Support Programme (Angola Power)

The Angola Power Sector Reform Support Programme (Angola Power), which ran from 2014 to 2016, was aimed at: (i) restructuring the power sector, (ii) fostering private sector participation in the power sector, and (iii) enhancing transparency and efficiency in public financial management. This US\$1 billion investment by the AfDB also aimed at inclusive growth, diversification and competitiveness of the economy. The project shows how public consultations helped the authorities and investors with the project design and how they were connected with a longer-term strategy of enabling sound and transparent financial management in public administration.

Benban Solar Park

In 2014, Egypt embarked upon a programme of major reforms to address some of the longstanding structural constraints to inclusive growth, macroeconomic stability, energy security and deficiencies in the business environment. To meet the increasing power demand, diversify the national energy mix and improve the environmental and climate footprint of the power sector, the Government of Egypt committed to exploiting Egypt's vast potential for

⁵⁰ AfDB, Project Completion Report on Angola Power Sector Reform Support Programme, April 2019, p2 https://evrd.afdb. org/documents/docs/PR10726_SR_EN.pdf

renewable energy. From 2015 to 2017, the World Bank disbursed a loan of US\$3.15 billion, which transformed the energy sector and enabled the construction of the principal generating facility at the Benban Solar Park, the first solar power plant on the African continent and one of the largest in the world. As the project's management team had to deal with some challenging local community issues, it engaged in a thorough and painstaking stakeholder selection and consultation process that helped to avoid conflicts of interest and safeguarded workers' rights and safety and local community's benefits.

In summary, effective stakeholder engagement was shown to be central to the successful management of risks and impacts on communities directly affected by projects, as well as to identifying, understanding and achieving wider societal benefits. Stakeholder engagement is an ongoing process throughout the project involving: (i) the public authority's disclosure of appropriate information (accurate, timely and accessible) to enable adequate consultation with stakeholders, (ii) meaningful consultation with potentially affected parties whereby they can make suggestions, comments or complaints; (iii) a procedure or policy by which people can participate in decision-making; and (iv) access to justice and legal recourse. This process should begin at the earliest stage of project planning and continue throughout the life of the project.⁵¹

Integrity challenges

The lack of stakeholder engagement in a project can be considered a red flag. Whether deliberate or not, it may set the project on a path of potential conflict with society. Without consultation, whether based on fact or perception, bidders may mistrust the outcome of the tender process, and local communities may feel aggrieved at the impact it has on their community.

This can feed widespread skepticism about the motives behind a project and support convictions that projects are set up to serve narrow private interests rather than for the benefit the wider society.

Projects that are poorly aligned with the interests of stakeholders can fail in many ways – such as overspending, delays, incompleteness, poor quality, poor value for money etc. This can lead to the opposite of the intended impact of the project. Instead of contributing to social and economic development, unsuccessful projects can have a detrimental effect on the livelihoods, social sustainability and security of the local population and the wider society. These failures are often caused by a lack of consultation.

⁵¹ Environmental & Social Impact Assessment for 30 MW PV Power Plant Benban Solar Park, Aswan Governorate, Egypt, April 2017, p. 221. https://www.miga.org/sites/default/files/archive/Documents/SPGDisclosures/MMID%2030%20 Benban%20-ESIA%20Final%20Report.pdf.

Inadequate or insufficient stakeholder engagement is not in itself a cause of corruption, but it can directly impact critical phases of the projects, such as initial appraisal, planning, budgeting, technical specifications and scheduling. If not properly planned, opportunities for unethical actors, including employees, to undermine the objectivity and impartiality of the decision-making are rife. This can result in conflicts of interest, political interference, collusion, price-fixing, and other practices that can potentially restrict free and fair competition and enhance the likelihood of corrupt behaviour. Also, stakeholder consultations can be vulnerable to corruption. In such cases, consultations are manipulated to come up with stakeholder feedback which supports the private interests at play.

Good practice checklist

- Did the contracting authority/investment consortium undertake a timely and transparent stakeholder consultation to inform the needs assessment and secure its social value?
- Did the contracting authority solicit timely input from relevant experts, including but not limited to business associations and industry representatives, to ensure that technical criteria are realistic, honourable and adequately priced?
- Did the local community have the means to enforce their right to information and participate in decision-making and public oversight for the needs determination and appraisal process?
- Were the public consultations carried out in an inclusive, authentic, appropriate and accessible fashion, ensuring that public concerns were heard and addressed? Was the public informed of how their concerns were addressed?

Project good practices

Timely and transparent public consultation in Angola Power project to establish social needs

Angola Power received a "highly satisfactory" evaluation for its relevance to the social needs of the country: "The project rightly prioritized sector reforms as a pre-requisite for private sector investment, expanding access, and sector financial sustainability".⁵²

From the needs assessment, it was clear to the project designers who the ultimate beneficiaries were: the urban and rural population of Angola, including the most vulnerable sections of the

⁵² AfDB, Evaluation Report on Angola Power Sector Reform Support Programme, 16 February 2017, p5 https://evrd.afdb.org/documents/docs/PN10688_SR_EN.pdf,

population, and the private sector which benefited from better access to reliable and affordable electricity supply.⁵³

The main project sponsor, the AfDB, supported consultations and public hearings organized by the Government of Angola, which was given a "highly satisfactory" rating for displaying a "commendable openness" in discussing both the sector reform programme and the public finance programme and in adapting the content as needed during implementation.

The early-stage consultations with government stakeholders established that there was a risk of skills shortage, a relatively common occurrence in large complex projects in developing countries. The areas identified were expertise in the power sector, procurement and public financial management (PFM). Any lapses in these particular areas would have made the project vulnerable to major integrity risks. The project was innovative because it combined a power sector construction project with a major reform of government administration.⁵⁴

The AfDB's solution was to offer a technical support and capacity-building programme provided by a team of experts who were instrumental in providing tools and advisory services to the Government. With the support of the programme, the project contributed to "strengthening [g] overnance and PFM, enhancing risk reduction in investment and public procurement through mitigation measures in the form of a 'Procurement Action Plan'".⁵⁵

The legal and regulatory reform of the procurement function of the Government in turn led to the creation of a new National Public Procurement Service, which promoted international procurement standards, a technologically modern financial management system and best practices throughout government. There was evidence of significant improvements in legislation and action plans setting new PFM procedures, particularly in procurement. The reform process is considered to have introduced a modern financial management system and introduced best practices in government processes.

Finally, the project evaluator cautioned about the need to maintain the results gained during a project over the long-term saying: targeted support would be required in "critical areas such as undertaking studies, developing operational strategies and plans, developing skills, and sustaining sector improvements processes as conditions for institutional sustainability."⁵⁶

⁵³ Ibid. p. 14.

⁵⁴ For more insights into the role of PFM in promoting integrity in international investment projects, see GPM 3.

⁵⁵ AfDB, Project Completion Report on Angola Power Sector Reform Support Programme, 13 June 2017, p. 12, https://evrd.afdb.org/documents/docs/PR10726_SR_EN.pdf.

⁵⁶ Ibid

Receiving expert input on technical criteria in Benban Solar Park

The Benban Solar Park project team engaged in an extensive stakeholder mapping exercise. The various engagement activities were divided into the following categories:

- Pre-project designing;
- Scoping phase;
- Data collection phase;
- Public consultation phase.
- Each of the above categories had its own disclosure and communication plan and timetable directed at targeted audiences.

Key stakeholders that were consulted on technical matters about the impact of the project on health, safety, environment and community included:

- Local government authorities in order to obtain detailed information about the project and the Benban location;
- Deputy of the Science and Environmental Affairs College in Aswan;
- Manager of networks at the Aswan regional branch of the Egyptian Electricity Transmission Company (EETC);
- Head of electricity transmission line and environmental studies in EETC;
- Chairman of Health Directorate and Head of Protective Medicine;
- Heads of NGOs (Benban Community Development Association, Daraw Community Development Association and Raqaba Community Development Association);
- The local community of Benban (electricity network, sewage facility, head of a local unit, the mayor of Benban Bahary).⁵⁷

In the pre-project design phase, EBRD, one of the lenders, engaged in detailed policy dialogues with the Egyptian authorities on bankability-related issues, leading the discussions in consultation with other international financial institutions. The discussions focused primarily on developing a contractual framework that was acceptable to investors, bankable, fair to and sustainable for the public.⁵⁸ An essential part of this activity was the analysis of alternatives which explored the costs/benefits of no development, other sites, and other technologies for power generation and solar panels.

During the scoping phase, the authorities provided information on the project and on the planned impact assessment studies and invited local community representatives and potential developers to comment, raise issues, and suggest where additional studies were needed.⁵⁹ A key objective

⁵⁷ EcoConServ, Environmental Solutions, Benban 1.8gw Pv Solar Park, Egypt, Strategic Environmental & Social Assessment Final Report, February 2016, p. 5–6. https://www.eib.org/attachments/registers/65771943.pdf.

⁵⁸ EBRD (2019). MDB Infrastructure Cooperation Platform: project preparation workstream, Phase II Reference Note on project preparation across the full project cycle, April 2019, pp. 12, 15–16. https://www.mof.go.jp/english/policy/international_policy/convention/g20/annex6_2.pdf.

⁵⁹ Strategic Environmental & Social Impact assessment Benban 1.8 GW Photovoltaic solar Park (NREA), Egypt, Final Report, February 2016, p. 14. https://www.eib.org/attachments/registers/65771943.pdf.

of these meetings was to help the local communities understand the potential environmental and socio-economic impacts in the different phases of the project (construction, operation and decommissioning phases). ⁶⁰ A second key objective was to obtain information on the characteristics and requirements of the individual Benban Projects from the developers, both for the construction phase and the operations phase. ⁶¹ The outcome of the consultations was a programme of social safeguards to protect and collective activities to develop the local economy surrounding the Benban Solar Park. Subsequently, all parties participating were expected to commit to this joint programme, created on the basis of trust rather than transactional relationships. ⁶²

Liaison with local community to enable public oversight in Benban

The Benban Solar Park project showed a high degree of commitment to public consultation and engagement at all stages of the project. In accordance with local laws and the MDBs' principles, the objective of the stakeholder engagement was to ensure safe and successful project delivery during the construction phase and the operation phase. This was achieved by:

- Informing stakeholders, including persons or groups who are directly or indirectly affected by the project, as well as those who may have interests in the project and/or the ability to influence its outcome, either positively or negatively;
- Avoiding conflicts by addressing impacts and issues raised by stakeholders promptly; particularly with the communities that will not be served by the project;
- Ensuring that fears and anxieties about the nature, scale and impact of the operation have been properly considered in the development and management of the project;
- Accessing and making good use of existing local expertise and knowledge of the area;
- Avoiding any misconceptions about the project and managing expectations;
- Communicating and implementing a viable community feedback mechanism.⁶³

Failure to address any of these issues could have opened the door for corrupt or unethical behaviour by suppliers, local businesses or political leaders.

⁶⁰ Ibid.

⁶¹ Ibid

⁶² Environmental & Social Impact Assessment for Al Tawakol Photovoltaic Power Plant in Benban, Aswan, March 2016, p. 1–2. https://www.miga.org/sites/default/files/archive/Documents/SPGDisclosures/3.%20ESIA%20for%20Al%20 Tawakol%20PV%20%20Benban%20Aswan_%20March%202016.pdf.

⁶³ EcoConServ, Strategic Environmental & Social Impact Assessment Benban 1.8 GW Photovoltaic solar Park (NREA), Egypt, Final Report, February 2016, p. 14. https://www.eib.org/attachments/registers/65771943.pdf.



There were a number of cultural challenges while engaging with the local community. The affected population was concentrated in the small villages in the region of the project and was largely illiterate. Consultations had to be held in the local dialect in the villages themselves, in order to "conduct stakeholder engagement activities free of manipulation, interference, coercion, and intimidation." Most of the people in the community were unaware of solar power, so a wide range of communication and consultation methods were used, such as group meetings, focus group discussions, semi-structured interviews, and in-depth individual interviews.

Response to public concerns and an effective grievance mechanism

During the public consultation events, a long list of feedback was raised that included: project's impact, technical specifications, job opportunities and community role in the project.⁶⁴ In total, over 822 people were directly consulted. Many of the concerns raised by the local population touched upon employment opportunities for the local community and capacity-building activities to address water resources issues.⁶⁵ According to the project report, all the queries were addressed and where applicable, included in the project design.⁶⁶

One important outcome of the consultations was the creation of a functioning worker and community grievance system⁶⁷, which was based on an IFC grievance mechanism.⁶⁸ The procedure for the grievance mechanism for both workers and the local community included a rigorous process for investigating reported corruption. See Box 7 below.

⁶⁴ AfDB, Summary of the Environmental and Social Management Plan (ESMP), Alcazar II Solar PV Project, 2017, p. 14. https://www.afdb.org/fileadmin/uploads/afdb/Documents/Environmental-and-Social-Assessments/Egypt-Alcazar_II_solar_PV_project-Summary_ESMP-06_2017.pdf.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Environmental & Social Impact Assessment for Al Tawakol Photovoltaic Power Plant in Benban, Aswan, March 2016, p. 1–2, 7–19. https://www.miga.org/sites/default/files/archive/Documents/SPGDisclosures/3.%20ESIA%20for%20Al%20 Tawakol%20PV%20%20Benban%20Aswan_%20March%202016.pdf.

⁶⁸ The Office of the Compliance Advisor/Ombudsman for the International Finance Corporation and the Multilateral Investment Guarantee Agency (2008). A Guide to Designing and Implementing Grievance Mechanisms for Development Projects. Washington. DC., 2008. https://documentsl.worldbank.org/curated/en/598641478092542645/pdf/108864-WP-CAO-ENGLISH-Implementing-Grievance-mechanisms-PUBLIC.pdf.

Box 7

Benban grievance mechanism for community and workers

- A concern is raised, either anonymously or with a known name and source. All issues raised are tracked in the projects "Issue Log", and a person responsible for the issue is identified. While the project manager is ultimately responsible for all issues, a concern/issue may be delegated to the site manager, the health, safety, security and environment (HSSE) manager or the quality assurance (QA) manager, as appropriate.
- Any concern indicating danger for human life, significant environmental damage or fraud and corruption will demand an immediate shutdown until it has been investigated.
- Identified concerns are investigated. All concerns are evaluated and corresponding actions agreed within 72 hours.
- For all community-related issues, the agreed action is added to any planned agenda for information meetings or reports.
- For all worker-related issues, the agreed action is communicated through the suppliers foreman to all relevant personnel at the earliest convenience.
- Once agreed, actions are completed, the issue is closed and final notification is given.
- Any concern related to possible corruption, significant security or safety breaches or other
 potential major concerns gives anyone on site the right and duty to stop work and report to the
 site manager.

Learnings and conclusions

The two projects in this GPM have much in common: each is seen by the public authorities and their funders as a major contributor not just to the economy but also to the advancement of good governance in public administration.

Angola Power's goal was not only to protect the immediate project's investment from corrupt activities but also to improve governance and make public financial administration more transparent and effective at the national level. The technical assistance provided to the Government on legal reform around public procurement helped to achieve this. The good practice here is that the authorities and the funders took a holistic approach to integrity in investment projects.

In the case of Benban, the extensive consultations with all stakeholders, such as the government and its agencies, the expert community, and the local community, at the early stage of the investment process demonstrated a strong commitment to delivering clear benefits which met the needs of society and reduced scope for corruption.

To summarize, in order to effectively address such risks, genuine, bona fide consultations can be defined according to the following criteria:

Inclusiveness

The consultations distinguish between different types of stakeholders whatever their status, position and influence in society, and acknowledge and record their differing interests.

Authenticity

The consultations are conducted according to a realistic timeframe, and are not "rushed" in order to deliberately exclude or ignore certain stakeholders.

Appropriateness

The consultations use an appropriate method for hearing the stakeholders' voices. Methods could include public meetings or "town halls", targeted consultations, focus groups, and written surveys according to local traditions and levels of literacy and education.

Accessibility

The information provided to stakeholders before, during and after the consultations is easy to comprehend and tailored to the different stakeholders and their concerns.

GPM 2:

Objective environmental and social impact assessment

Ensure feasibility and objectivity by carrying out standardized environmental and social impact studies to integrate relevant concerns in decision-making, and mitigate adverse effects.

With rising public concern about climate change and environmental impact, and a changing regulatory context, there has been increasing pressure to adhere to the highest possible integrity standards in all areas of investment, especially regarding the impact of the project on the environment and society.

The SDGs have become an important point of reference for public investment projects, so that the overall societal value of a project remains a foremost priority. Projects which neglect environmental and social stewardship are prone to heightened risks of corruption and fraud, which in turn can have a serious detrimental effect on environmental and social outcomes.

Under projects financed by MDBs, which have a social development mission in their statutes, maintaining environmental and social standards has become a sine qua non for receiving approval for funding. While environmental and social impact studies have been in use for years, new trends in sustainability are raising issues that the traditional approaches to sustainability might have missed: for example, management of climate change risks, such as attaining zero-carbon emissions, not only in the project itself, but in every phase of production, transportation and delivery. Child labour, modern slavery and gender rights and opportunities, not only in the project itself but throughout the supply chain, are now matters of intense scrutiny.

Underpinning the expectations for integrity in international investment projects is a new commitment to substance over process: environmental stewardship, social responsibility, good governance, accountability and inter-connectedness have become as important as the immediate economic benefits and value for money of the project.

There is an increasing number of international investment projects around the world which have made a significant commitment to sustainability. In Brazil, for example, the Belo Monte UHVDC Transmission Project, completed in 2019, in itself a renewable energy project (the electricity transmitted is hydroelectricity), is a relevant example of how a commitment to corporate social responsibility (CSR) can bring together the interests of the state, industry and local communities, to the mutual benefit of all stakeholders.⁷¹

The London Crossrail project takes the theme of sustainability a step further and exemplifies an even more ambitious commitment to social value. With a strong degree of public consultation and local community input, the local authority and the management team put sustainability at the heart of the project. Now, in 2022, as the first trains start running, the project seems set to deliver its combined goal of benefits for the economy, minimal disruption to the natural habitat and enhancement of the livelihoods of the local communities.

⁶⁹ Large scale international and national investment projects by law require appraisals such as an Environmental and Social Assessment (ESIA) or Strategic Environmental and Social Assessment (SESA) – see PGM 1 to learn how these are applied in projects.

⁷⁰ See the Greening of the BRI as an example of how environmental stewardship is promoted and risks managed in large scale projects.

Christoph Nedopil Wang, "New Guidance for Green Development for BRI Projects – second phase report to scale up green finance and green development," Green Finance and Development Center, 13 December 2021. https://greenfdc.org/greendevelopment-guidance-for-bri-project-traffic-light-system-phase-2/.

⁷¹ Deugro Group. Case Study: Belo Monte Power Project. https://deugro.com/wp-content/uploads/deu_case_study_belo_monte_a4_44_web.pdf;

Zhand Yuwen, Anselmo Leal, "The Belo Monte Cooperation", Ministry of Commerce of the People's Republic of China. http://www.mofcom.gov.cn/article/beltandroad/br/enindex.shtml;

Milton Leal, "Belo Monte Power Line Passes through Brazil's Amazon and Cerrado Savannah", China Dialogue, 22 September 2016 https://chinadialogue.net/en/energy/9266-belo-monte-power-line-passes-through-brazil-s-amazon-and-cerrado-savannah/.

Integrity challenges

Neglecting sustainability criteria in the early assessment stages of an international investment project can not only have a negative impact on the environment and society, but also affect the financial success of the project itself.⁷²

Projects which fail to meet environmental standards can cause widespread air, water, and soil pollution and contribute to long-term climate change. Carbon dioxide emissions and greenhouse gases can have a short-term impact on health and livelihoods by contributing to respiratory disease in the population, exacerbating freshwater scarcity and reducing soil quality standards.

There is a substantial overlap between environmental and social failures and corruption. For example, officials may ease the standards for a rigorous environmental impact assessment of the project in exchange for bribes or facilitation payments. Consultants or researchers can be "incentivized" to produce needs reports, environmental and social impact assessments and feasibility studies that provide false justifications to support the selection and approval of a specific project or favour specific future bidders and contractors.

However, even in the presence of sound regulations, effective enforcement is critical to assure adherence to relevant guidelines. In 2015, some projects financed by the World Bank were criticized for not having adequately addressed their social impact, particularly resettlement programmes.⁷³

Another example of insufficient environmental stewardship and consultation with the public is the MOSE project in Venice (Modulo Sperimentale Elettromeccanico), a system of retractable gates to protect Venice from the high tides of the Adriatic. This European Investment Bank (EIB)-backed project underwent cost overruns, time delays, use of sub-optimal materials which were not in the original specification, expensive technological solutions that were not fit for purpose, and allegations of corruption.⁷⁴

Subsequently, the EIB was also involved in a legal case brought forward by a CSO which claimed that the Bank failed to provide transparency by rejecting a request to carry out an internal review on its environmental scrutiny processes. The court's ruling confirmed that the bank

[&]quot;Conflict minerals" projects are their most extreme manifestation of (deliberately) ignoring Environmental, Social, and Governance (ESG): "Resources from conflict or high-risk areas – such as parts of Afghanistan, Colombia, the Democratic Republic of Congo (DRC), Zimbabwe and Myanmar – provide lucrative funding to armed groups and are linked to human rights abuses and environmental degradation." Global Witness, "Responsible Minerals". https://www.globalwitness.org/en/campaigns/conflict-minerals/.

⁷³ World Bank, "World Bank Acknowledges Shortcomings in Resettlement Projects, Announces Action Plan to Fix Problems", 4 March 2015. https://www.worldbank.org/en/news/press-release/2015/03/04/world-bank-shortcomings-resettlement-projects-plan-fix-problems.

⁷⁴ Roberto Giovannini, "Venice and MOSE: story of a failure", La Stampa, 12 October 2017. https://www.lastampa.it/esteri/la-stampa-in-english/2017/10/12/news/venice-and-mose-story-of-a-failure-1.34401212/ Roberto Giovannini, "Venice and MOSE: story of a failure", La Stampa, 12 October 2017. https://www.lastampa.it/esteri/la-stampa-in-english/2017/10/12/news/venice-and-mose-story-of-a-failure-1.34401212/.

must review certain funding decisions – some of which have huge environmental impacts – when a lawful request is made.⁷⁵

Good practice checklist

- Did the contracting authority commission or undertake an overall review of the investment project against environmental and social impact criteria?
- Did the contracting authority seek input from the stakeholders, including the public, relevant environmental authorities and local/regional authorities?

Project good practices

Supported by funding from the EIB, the £18.6 billion London Crossrail project is the largest infrastructure project in Europe. It consists of an East-West urban rail link connecting central London with its outskirts, Heathrow Airport and two main railway stations.

The project was not without controversy. The estimated cost of the project was approximately £3.8 billion more than anticipated in 2010, and several years of delay in opening the new line.⁷⁶

The issues came to a head in 2019 after another cost rise and the announcement of further delays. These were detailed in a report by the London Assembly which found insufficient transparency in the communications between the Crossrail management, Transport for London (TfL), the London authority overall responsible for the project and other stakeholders.⁷⁷

⁷⁵ European General Court, *ClientEarth v. European Investment Bank (EIB) supported by European Commission*, Case T-9/19, Judgment, 27 January 2021. https://curia.europa.eu/juris/document/document.jsf?text=&docid=237047&pageIndex=0 &doclang=en&mode=lst&dir=&occ=first&part=1&cid=3767521. A further investigation into EIB practices by the EU Ombudsman can be read here: European Ombudsman, "Ombudsman asks EIB to improve transparency around the projects it finances", 25 April 2022. https://www.ombudsman.europa.eu/en/news-document/en/155122.

⁷⁶ Neil Lancefield (PA Transport Correspondent), "Timeline of troubled Crossrail Project", Yahoo News UK, 4 May 2022. https://uk.news.yahoo.com/timeline-troubled-crossrail-project-132509183.html.

⁷⁷ London Assembly, Transport Committee (2019). Derailed: Getting Crossrail Back on Track. April 2019. https://www.london.gov.uk/sites/default/files/final london_assembly_transport_committee_crossrail_investigation_report_0.pdf

The authors concluded: "Transparency and open communication are indispensable for projects funded by the public purse. It is important that all stakeholders, including future passengers, have the opportunity to know and understand the decisions that are being made on large, expensive, high-risk projects. Likewise, thorough reporting of these decisions is necessary to ensure accountability and scrutiny." They recommended the London Mayor and TfL Board take "stronger control over projects they are ultimately responsible for". 78

Despite these setbacks, this project sets a good example of how sustainability criteria were integrated into the project from the start and went far beyond the traditional Environmental and Social Impact Assessment (ESIA) processes.

Defining social value: reviewing the project against environmental and social impact criteria

From the start, sustainability was a central theme, and the contracting authority went far beyond a traditional review of environmental and social impact. As part of this project and its construction code, so-called Environmental Minimum Requirements were identified by Parliament. These are enshrined in an act and made legally required for setting up Crossrail and were also supported by the local authorities. These environmental aims were: a) to design and construct Crossrail such that the environmental impacts are eliminated, controlled or reduced where reasonably practicable; b) to prevent environmental risks and environmental damage by developing mitigation measures to an appropriate standard and monitoring and enforcing them effectively; c) to address sustainability principles in ongoing design, taking opportunities for environmental enhancement and compensation where practicable and reasonable.

Going beyond the minimum required by law was the distinctive feature of this project. Crossrail produced a sustainability strategy which highlighted seven sustainability themes critical to the delivery of the project but also aligned with the government and the local authorities' sustainability goals. Within this were 15 Key Sustainability Initiatives (KSI) designed to deliver the requirements of each theme.⁸¹

⁷⁸ Ibid.

Michael de Silva and Robert Paris, "Delivering Crossrail, UK: a holistic approach to sustainability, Proceedings of the Institution of Civil Engineers, Engineering Sustainability", Volume 168, Issue 4, August 2015, p. 151. https://www.icevirtuallibrary.com/doi/epdf/10.1680/ensu.1400037.

⁸⁰ Crossrail, "Environmental Minimum Requirements (including Crossrail Construction Code)". https://www.crossrail.co.uk/about-us/crossrail-act-2008/environmental-minimum-requirements-including-crossrail-construction-code#.

⁸¹ Michael de Silva and Robert Paris, "Delivering Crossrail, UK: a holistic approach to sustainability, Proceedings of the Institution of Civil Engineers, Engineering Sustainability", Vol.168, Issue 4, August 2015, p. 151. https://www.icevirtuallibrary.com/doi/epdf/10.1680/ensu.1400037.

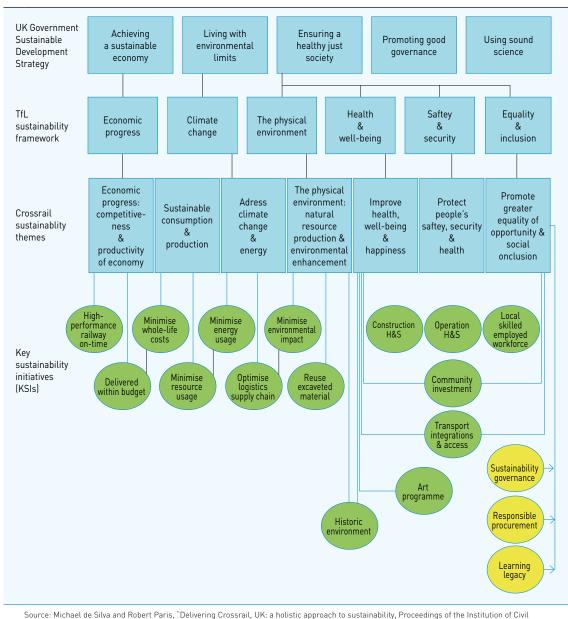


Figure 1: Crossrail's sustainability themes and key sustainability initiatives as defined in its strategy.

Source: Michael de Silva and Robert Paris, "Delivering Crossrail, UK: a holistic approach to sustainability, Proceedings of the Institution of Civil Engineers, Engineering Sustainability", Vol.168, Issue 4, August 2015, p. 152. https://www.icevirtuallibrary.com/doi/epdf/10.1680/ensu.1400037.

This structure was intended to take a balanced view of the project's environmental, social and economic performance, with each theme and KSI reflecting Transport for London's (TfL) sustainability framework, government priorities, and Department for Transport's (DfT) policy.

Crossrail's governance approach to sustainability is instructive: responsibility for the realization of each of the KSIs was assigned to senior management under the overall direction of the chief executive. Each directorate was required to identify specific sustainability objectives and targets as part of the annual business plan, cascading these into individual objectives. Each year, corporate key performance indicators (KPIs) were established against which top-level management and partner organizations were financially incentivized.82

⁸² Ibid.

There were a number of practices which point the way to the future of a holistic approach to sustainability management in projects. The critical success factors in the Sustainability Strategy are reproduced in full in Box 8.83

Box 8

Crossrail Sustainability Strategy, critical success factors for the Key Sustainability Initiatives

Clarity of vision

An unequivocal statement, from the Board and ExCom setting out why and how sustainability will be incorporated into the design, construction and operation of Crossrail.

Identification of all activity

Clear line of sight to all on-going and planned activity within the sustainability arena. A clear work breakdown structure. A standardized way to document and report on projects, ensure consistent language across business for describing the portfolio. High-quality data on progress, risks, interfaces and interdependencies with the main delivery programme; and clear insightful dashboard reporting of the portfolio status.

Performance management

To set clear performance indicators and targets within an integrated performance management and reporting system. Ensure accurate, insightful and rapid assessment of performance and progress against plan.

Alignment

Demonstrating a clear consistent alignment of delivery and the Crossrail sustainability strategy. To give insight into completeness, alignment, efficiency and effectiveness of the portfolio of activity. To ensure a benefit focused, not cost focused, portfolio.

Prioritization of sustainability activity

Sufficient priority to sustainability related activity, particularly if funding and schedule constraints increase. To view sustainability as a core value of the Crossrail programme. Within the portfolio of activity to ensure a clear prioritization to ensure appropriate resource, and management attention, based on alignment to Programme Objectives, Cost/Benefit, achievability and political and media interest. Also, there needs to be recognition of the diversity of activity, particularly the alignment of the activity to delivery of the project performance, safely, on time and to budget, and the extent to which industry best practice and standards have already incorporated sustainability objectives.

Awareness & engagement

All staff working on the delivery of Crossrail has a role to play in the successful execution of this strategy. Therefore, incorporating sustainable development into the ethos and mind-set of all Crossrail staff (including partners) is essential: this to be achieved through a programme of awareness and training.

⁸³ Crossrail. Crossrail Sustainability Strategy. Document Number: CR-XRL-T1-GST-CR001-0000, p. 16–17. https://learninglegacy.crossrail.co.uk/wp-content/uploads/2016/02/ENV64_SustainabilityStrategy.pdf.

Awareness & engagement

All staff working on the delivery of Crossrail has a role to play in the successful execution of this strategy. Therefore, incorporating sustainable development into the ethos and mind-set of all Crossrail staff (including partners) is essential: this to be achieved through a programme of awareness and training.

Working in effective strategic partnerships

Effective partnering is critical, i.e. a commitment between two or more parties in a collaborative relationship to create value by striving to achieve shared goals and operational benefit through a spirit of mutual trust and openness. This is particularly critical with regard to the industry and delivery partners.

Stakeholders

Excellence in stakeholder management – including sponsors, industry partners, delivery partners, consultants, contractors, the public, and statutory bodies.

Clarity of organization

In order to progress the work in the most efficient and effective manner, it is important that roles and responsibilities, priorities and organizational structures are clear and understood.

Budget

To ensure sustainability considerations are integrated into the capital budget, and assessed through whole life costing analysis. To ensure that the staffing required to provide the sustainability oversight and co-ordination is in place.

Integrated portfolio approach

The sustainability activity is spread across all functions, departments, and partners. Whilst fundamentally driven and managed bottom up, there is a necessity to apply a top-down approach to ensure visibility, consistency, alignment, appropriate prioritization and co-ordination of all activity.

Timely decision making

It is important that decisions are timely, but considered and integrated.

Integration with programme processes

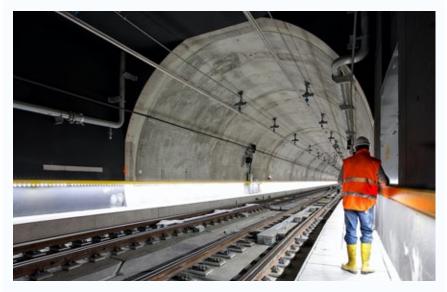
The sustainability activity, and the related interfaces and interdependencies must be recognized and included in the wider project planning, budgeting, and risk management process, but also managed as an explicit sustainability work stream.

Innovation

The combination of the unique challenges of Crossrail and the increasing expectations of sustainable development, not present to the same degree in historical major infrastructure projects, means that innovation, learning, flexibility and creativity will be key to delivering a strong sustainability performance during design in particular.

Public inputs into the sustainability goals

Alongside the commitment to sustainability, there was a strong commitment to stakeholder consultation and public transparency. Indeed, public consultation was designed to comply with government legislation, guidelines and codes of practice on the dissemination of information during major infrastructure developments, access to government information, and the Transport and Works Act 1999.



Worker's visit during the construction of Crossrai

Even before the project had gained parliamentary approval, Crossrail carried out extensive stakeholder and public consultation. In 2003 and 2004, over 50 days of exhibitions were held to explain the proposals at over 30 different locations. Over 200,000 invitations were distributed to the properties of residents and businesses along the proposed route.⁸⁴

In many of the projects researched for this publication, public consultation on environmental, social, health and safety issues went ahead, but in some cases it seemed to have been conducted in a somewhat bureaucratic way – because it was required by law or the lenders, not because the inputs were to be used to influence the project. Because of the politically high profile of the project, full stakeholder engagement in the project was essential, going well beyond the traditional consultation process. For example, in Crossrail, this was achieved by bringing local small businesses into the project: up to 62 per cent of contracts were awarded to SMEs.

There was also an active apprenticeship project, employing over 400 apprentices. This was an example of how sustainability, social value and a stakeholder engagement strategy were all combined by creating a local pipeline of engineering talent which provided employment and career development opportunities for local people.

⁸⁴ Crossrail, "Consultation and Information". https://www.crossrail.co.uk/about-us/crossrail-act-2008/consultation-and-information.

One of Crossrail's social commitments has been to share the learnings from the project, in particular on the subject of sustainability. There is a large body of information available for researchers and practitioners about good practices through an online resource the "Crossrail Learning Legacy"⁸⁵ which has helped to inform the research for this publication and is an invaluable resource for practitioners in international investment projects.

Learnings and conclusions

The adequacy of measures to ensure sustainability and minimize negative impacts on the environment and society depends on how they are implemented and if the findings of assessments are appropriately utilized when making decisions. If such mechanisms are not rigorously planned and effective policies as well as measures to ensure accountability and integrity are absent, the relevant processes of assessment and implementation of assessment findings can be influenced by corrupt practices causing various damages to the public health and environment resulting from corruption in decision-making.

The UK's Institution of Civil Engineers (ICE) has summarized the experience of Crossrail and other large infrastructure projects in creating a social value strategy. According to the ICE, "the strategy should ideally include opportunities associated with what is delivered, how it is delivered and how it is operated, based on a local needs analysis. The strategy should create social benefits and a lasting legacy for the communities that are served."⁸⁶

In Crossrail, placing sustainability at the heart of the project from the outset was critical. To do this, the project team needed to work with government, business and civil society to reach a common definition of what social value meant for the project and the environment and community which it would impact. This led to a clear understanding about what social value was, how it can be created, how it should be measured, and how negative social impacts could be minimized.

In such a large and complex project, it was essential to develop some common values on sustainability for all members of the team and external contractors. The senior management developed a common vision for the project through collaborative working and information sharing. Regular forums between the contractors' respective environmental managers, procurement specialists and sustainability managers were established, such as a Carbon Working Group which for reduction of carbon emissions, an Ethical Supply Chains in Construction Group for ethical sourcing, a Contractor Environmental Managers Forum, and an innovation forum.

 $^{85\}quad Crossrail.\ The\ Crossrail\ Learning\ Legacy\ Website.\ https://learninglegacy.crossrail.co.uk/.$

⁸⁶ Institute of Civil Engineers (ICE). Maximising Social Value from Infrastructure Projects. Useful Projects, v1.1., June 2020. https://usefulprojects.co.uk/wpcontent/uploads/2020/01/Maximising_social_value_from_infrastructure_projects_v1.1.pdf.

Before the adoption of the Crossrail Act 2008 (an Act of the UK Parliament that authorized the construction of the Crossrail railway), decision-making bodies were required to consider the environmental effects when deciding whether to carry forward the project. Prior to the deliberations at the Parliament, public consultations on the project's environmental statement were carried out, and responses were prepared. Additional documents were produced in light of the assessment of changes to the project or further information available after the production of the original statement. Various information papers were also produced to address some frequently raised concerns in relation to the Crossrail project, including its environmental impacts. In this context, the Government developed various control and mitigation strategies that resulted in several changes to the project, many of which, in whole or part, were aimed at reducing environmental impacts.⁸⁷

All these measures enabled the project owner to identify, predict, assess, and communicate to the public the environmental and social consequences of the project prior to its implementation and to adopt effective measures to minimize and mitigate potential negative consequences. Most importantly, this approach allowed informed decision-making by public or private actors through transparent, accountable and participatory processes.

Despite long delays and cost increases, the company has shown a commitment to communication with the public on sustainability and the wider social benefits of infrastructure investment and the project itself was completed without being involved in major corruption scandals.

⁸⁷ Government Overview of the Case for Crossrail and its Environmental Impacts. A report presented to Parliament by the Secretary of State for Transport by Command of Her Majecty. November 2007. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/228527/7250.pdf.

Phase 1 Phase 2 Phase 3 Phase 4 Phase 5

PHASE 2: PLANNING AND DESIGN (PRE-TENDER)

The pre-tender phase is the first stage in the procurement stage of implementing international investment projects. Besides preparing the detailed design of the project, this stage also includes preparation of contract packages, and identification of procurement methods and timelines for various procurement activities.

Creating an efficient procurement system based on transparency, competition and integrity is critical to combating corruption in international investment projects. Article 9 of the Convention provides that States parties should establish a public procurement system that is based on transparency, competition, and objective criteria for decision-making.

Articles 9(1)(a) and (b) provide the legal basis for the good practices covered in this part of the publication.

Article 9(1)(a) of the Convention stipulates the need for "public distribution of information relating to procurement procedures and contracts" and article 9(1)(b) calls for the "establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication".

In addition to the above clause, article 9(1) calls for "measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements." This has an important bearing on the capacity of authority to conduct a fair and transparent procurement. Since this aspect of procurement management is more related to the maintenance of high standards of integrity in public administration than in an individual investment project, this has been discussed in detail in Chapter 2, section 2.32.

In terms of legal frameworks, most countries have implemented procurement laws reflecting these requirements. These laws could be based on such instruments as the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Public Procurement, 88 the World Trade Organization's (WTO) Government Procurement Agreement (GPA), or the EU Public Procurement Directive. The UNCITRAL Model Law implements the Convention's article 9 requirements, including those relevant for the pre-tender phase, such as "the establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication". Moreover, the model law contains articles that fulfill the requirements concerning the

⁸⁸ See UNCITRAL Model Law on Public Procurement (2011). https://uncitral.un.org/en/texts/procurement/modellaw/public_procurement.

mandatory use of open tendering (or its equivalent services) unless there are justified reasons allowing for a restrictive method.⁸⁹

These legal principles and guidelines are put into practice through many investment and lending channels, each with their own rules and regulations and means of practical implementation. Amongst the most authoritative in recent years are the World Bank's International Competitive Bidding (ICB) procedures, issued in 2011 (updated in 2014 and more recently superseded in 2016 by successive editions of the Procurement Regulations for IPF Borrowers)⁹⁰ as a pre-condition for borrowers or investees (the contracting authority or government owning the project) to receive funding from the World Bank.

The pre-tender phase focuses on the preparation of the tender process, illustrated by GPM 3 and GPM 4. GPM 3 focuses on how principles and rules of public financial management, especially those about accountability, oversight and risk management, can be designed into the project at the planning stage, while GPM 4 focuses on the project's technical specification and the design of the procurement process.

The next phase – Phase 3, the tender phase – illustrated by GPM 5, looks at the practical execution of the tender through the fair selection of contractors, suppliers and vendors capable of delivering the project competently, within budget, on time and with integrity.

GPM 3:

Effective public financial management

Regulations on the management of public finances are designed and implemented to ensure the effective prevention of corruption, including by limiting the influence of individual operators in public-private partnerships (PPPs) and concessions.

Public financial management (PFM) is the "set of laws, rules, systems and processes used by governments to mobilize revenue, allocate public funds, undertake public spending, account for funds and audit results". 91 PFM covers the entire financial cycle: forecasting, taxation,

⁸⁹ UNODC (2009). Technical Guide to the United Nations Convention Against Corruption. https://www.unodc.org/documents/treaties/UNCAC/Publications/TechnicalGuide/09-84395_Ebook.pdf.

⁹⁰ World Bank Group (2014). Guidelines for Procurement of Goods, Works and Non-consulting services under IBRD Loans and IDA Credits and Grants by World Bank Borrowers. https://documents1.worldbank.org/curated/ar/359811468143061195/pdf/954800PUB0Box3010revised0July102014.pdf and World Bank 2016; World Bank, "Procurement Framework and Regulations for Projects After 1 July, 2016" Procurement Framework and Regulations for Projects After July 1, 2016 (worldbank.org).

⁹¹ Jorum Duri (2021). *The impact of public financial management interventions on corruption*. Bergen: U4 Anti-Corruption Resource Centre, Chr. Michelsen Institute (U4 Helpdesk Answer 2021:7) quoted from (Lawson 2015:1), p. 2, https://www.u4.no/publications/the-impact-of-public-financial-management-interventions-on-corruption.

accounting, budgeting, procurement and audits. 92 Since critical decisions about an international investment project's needs and ultimate purposes are conceived, financed and implemented by the government of the host country, the PFM sets the standards for integrity for the overall ecosystem in which an international investment project is operating.

It follows that weaknesses in PFM can result in a lack of fiscal discipline, poor alignment between the allocation of public resources and national policy priorities, and opportunities for corruption in the delivery of public services. A rigorous and transparent financial management system goes a long way to creating the optimal drivers of ethical behaviour and integrity throughout the government administration in general, and in large-scale projects which often account for a significant share of a country's national budget, in particular.



Figure 2: Illustration of Annual Budget Cycle, from PEFA, Public Financial Management, and Good Governance

Source: Jens Kromann Kristensen, Martin Bowen, Cathal Long, Shakira Mustapha, Urška Zrinski (2019). PEFA, Public Financial Management, and Good Governance. International Development in Focus;. Washington, DC: World Bank. https://openknowledge.worldbank.org/handle/10986/32526 (see footnote 75)

Many efforts at public-sector reform focused on the role of PFM in mitigating corruption risks have been made worldwide. These have been concentrated on reducing discretion in the public service through improving transparency, simplifying complicated or dispensing with unnecessary bureaucracy, and introducing innovative technology, in particular to make public financial dataavailable in a clear and usable way.⁹⁴ Analysis has provided evidence

⁹² The Public Expenditure and Financial Accountability (PEFA), a frequently used methodology for tracking PFM performance refers to seven pillars: budget reliability, the transparency of public finances, the management of assets and liabilities, policy-based strategy and budgeting, predictability and control in budget execution, accounting and reporting, and external scrutiny and audit.

⁹³ Jorum Duri (2021). *The impact of public financial management interventions on corruption*. Bergen: U4 Anti-Corruption Resource Centre, Chr. Michelsen Institute (U4 Helpdesk Answer 2021:7) quoted from (Fritz et al. 2017: 1) p. 3, https://www.u4.no/publications/the-impact-of-public-financial-management-interventions-on-corruption.

⁹⁴ For instance, integrated financial management systems (IFMS or IFMIS), public expenditure tracking surveys (PETS), and e-procurement. Chr. Michelsen Institute, The U4 Anti-Corruption Resource Centre, "Basic guide to corruption in public financial management" https://www.u4.no/topics/public-financial-management/basics .

that there is a relationship between better PFM, particularly expenditure controls, and lower levels of corruption.⁹⁵

MDBs have launched several initiatives which translate the principles highlighted in the international instruments into practice. These frameworks and guidance tools show how PFM can control corruption in large-scale projects. Examples include the World Bank's processes and procedures for managing the infrastructure project cycle, ⁹⁶ the OECD's guidance on infrastructure-budgeting principles and project management, ⁹⁷ and the IMF's Public Investment Management Assessment (PIMA), which is designed to help countries assess their infrastructure governance institutions. The PIMA provides a framework for assessing infrastructure governance across the full project cycle - the planning, allocation, and implementation stages of public investment - and allows for cross-country comparisons. ⁹⁸

The project in this GPM illustrates how safeguards against corruption risks can be incorporated in a project design. A project in Colombia is cited where careful planning at the design and financing stage enabled the project to move forward with a high level of transparency, accountability, and efficient use of public resources.

The objective of the La Guajira Water and Sanitation Infrastructure and Service Management Project Colombia was to improve the quality of water supply and sanitation services of La Guajira, increasing service quality for water supply, sanitation, and wastewater treatment in urban areas. The project was in the context of an underdeveloped infrastructure, attributable to a lack of long-term vision and strategic planning, a backlog of needed infrastructure investment, low levels of human capital development, and problems of governance and accountability. The operational design included explicit measures to improve transparency and accountability during project implementation. While it did not attempt to overhaul the PFM system, the project can be considered a model for addressing governance issues in several concrete ways, with the target of improving the efficiency in the use of public resources for providing water and sanitation in La Guajira.

In summary, the rules and standards governing PFM should apply equally to the management of investment projects. Amongst the criteria for making an investment are alignment with public policy and strategy, effective use of financial resources and value for money of the project, long-term sustainability of operating the asset, and effective balance of risks between public and private sectors.

⁹⁵ Jens Kromann Kristensen, Martin Bowen, Cathal Long, Shakira Mustapha, Urška Zrinski (2019). PEFA, Public Financial Management, and Good Governance. International Development in Focus;. Washington, DC: World Bank. https://openknowledge.worldbank.org/handle/10986/32526.

⁹⁶ Anand Rajaram, Kai Kaiser, Tuan Minh Le, Jay-Hyung Kim, and Jonas Frank (2014). *The Power of Public Investment Management: Transforming Resources into Assets for Growth.* Directions in Development. Washington, DC: World Bank. https://elibrary.worldbank.org/doi/pdf/10.1596/978-1-4648-0316-1.

⁹⁷ OECD (2017). Getting Infrastructure Right: A framework for better governance, OECD Publishing, Paris, https://read.oecd-ilibrary.org/governance/getting-infrastructure-right_9789264272453-en#page4.

⁹⁸ IMF Infrastructure Governance, "What is PIMA". https://infrastructuregovern.imf.org/content/PIMA/Home/PimaTool/What-is-PIMA.html.

⁹⁹ World Bank. Project Appraisal Document on a Proposed Loan in the Amount of US\$90.0 Million to the Department Of La Guajira with the Guarantee of the Republic of Colombia for a La Guajira Water and Sanitation Infrastructure and Service Management Project in Support of the First Phase of the Water and Sanitation Infrastructure and Service Management Programme. Report No: 38508-CO, 12 February 2007. https://ppp.worldbank.org/public-private-partnership/sites/ppp. worldbank.org/files/ppp_testdumb/documents/Guajira_38508.pdf.

Integrity challenges

The risk of corruption exists at every stage of PFM, starting from the budget formulation stage, where, through discretionary budgeting powers, the state's resources can be allocated to particular projects according to biased criteria or political influence. The budget itself can later be amended by corrupt politicians, backed by vested interests, in order to channel funds to projects from which they can derive personal benefit in some way. Weak, flawed or opaque reporting, accounting and auditing practices are likely to increase the corruption risk at other stages of the execution process, making it harder to prevent or detect. 100

In this phase of the international investment cycle, the alignment of project goals with the government's development strategy and the treasury's budget planning and implementation is critical. Any failure to do so could create opportunities for corruption and fraud and lead to projects that fail to meet social needs or to be adequately financed.

Fiscal transparency in PFM is critical for accountability in public spending and good governance. It encompasses transparency of fiscal data, the budget process, and related government functions. From an anti-corruption perspective, the purpose of fiscal transparency is to enable greater scrutiny of public accounts, deter corruption and ensure that resources are used in the public interest. Current literature shows that budget tracking and expenditure control reduce corruption. Other solutions are to use data to ensure that the planning and budgeting of purchases are realistic and that the goods and services to be procured are in line with the overall investment plan of the government. In addition to audits, which have been shown to reduce corruption, Innovative techniques such as public involvement in project selection and design through participatory budgeting are gaining popularity. Publishing government data from public tenders through initiatives such as CoST and Open Contracting Partnership have also been shown to enhance transparency.

¹⁰⁰ Mathias Morgner, Maria Chêne, Reviewer: Finn Heinrich (2014). Public Financial Management Topic Guide Compiled by the Anti-corruption Helpdesk, Transparency International, 28 November 2014. https://www.transparency.org/files/content/ corruptionqas/Topic_guide_on_public_financial_management_2014.pdf; World Bank Group. PEFA, Public Financial Management, and Good Governance. https://olc.worldbank.org/system/files/PEFA_Pg1to6.pdf.

¹⁰¹ Anand Rajaram, Kai Kaiser, Tuan Minh Le, Jay-Hyung Kim, and Jonas Frank (2014). The Power of Public Investment Management: Transforming Resources into Assets for Growth. Directions in Development. Washington, DC. World Bank. https://elibrary.worldbank.org/doi/pdf/10.1596/978-1-4648-0316-1; World Bank Group (2020). Enhancing Government Effectiveness and Transparency: The Fight Against Corruption, World Bank, Washington, DC. https://documents1. worldbank.org/curated/en/235541600116631094/pdf/Enhancing-Government-Effectiveness-and-Transparency-The-Fight-Against-Corruption.pdf; IMF. Fiscal Policies: Fiscal Transparency. https://www.imf.org/en/Topics/fiscal-policies/fiscaltransparency.

¹⁰² Kari K. Heggstad and Mona Frøystad (2011). The basics of integrity in procurement. U4 Anti-Corruption Research Centre, Chr. Michelsen Institute (CMI), U4 Issue, October 2011, No 10. https://www.u4.no/publications/the-basics-of-integrity-in-procurement.pdf.

¹⁰³ Increased frequency of audits has also been identified in a number of settings as leading to reduced levels of corruption.

Studies in Brazil found a decrease in costs (of approximately 10 per cent) and decreases in audited resources involved in corruption (of approximately 15 percentage points) linked with initiatives to increase the frequency of auditing by 20 per cent. A 2007 study of village-level procurement in Indonesia found that increasing the frequency of audits to 100 per cent resulted in a decline in missing expenditures by 8 percentage points.

¹⁰⁴ World Bank. "Participatory Budgeting: An Experience in Good Governance", World Bank Feature Story, 10 September 2012. https://www.worldbank.org/en/news/feature/2012/09/10/participatory-budgeting-an-experience-in-good-governance.

 $^{105\ \} Open\ Contracting: Impact\ and\ Evidence.\ https://www.open-contracting.org/impact/evidence/.$

One of the most significant possible problems is the creation of fiscal risks and contingent liabilities stemming from poor performance, especially in PPPs both implicit and explicit, arising from government loans, investments, and guarantees of investments (see GPM 7 for a more detailed discussion about PPPs). The ministries of finance or equivalent departments plays a vital part in overseeing fiscal risks through periodic reporting and disclosure of fiscal impacts. The government should also provide funds to manage contingent liability risks. ¹⁰⁶ In cases where there is no creation of a contingent liability and no government guarantee, government equity in a PPP project can be eroded if poor performance necessitates additional government subsidies or investments that act as subsidies. Such injections of equity should be transparently reported in the budget.

At the heart of PFM is the budget execution stage, during which corruption risks may be at their highest. This is the stage at which the funds become tangible and, thus where international investment projects are most likely to be exposed to various forms of corruption risks, such as bribery and kickbacks, bid-rigging and other forms of undue advantages.

For example, in preparing the national budget, officials may include projects that benefit their own interests, not those of the public; tax officials may embezzle tax revenue; public officials may misappropriate non-tax revenue; and finance managers of public sector organizations may make corrupt payments which ultimately benefit themselves or people close to them. State assets may be undervalued during their sale, and conversely, assets may be purchased at an inflated value, with the balance going to the corrupt public official.¹⁰⁷



Local children benefiting from the La Guajira Water & Sanitation Infrastructure and Service Management Project

¹⁰⁶ Obligations for governments to make payments only if particular events occur. See: Hanna Polackova (1999). Contingent Government Liabilities. A Hidden Fiscal Risk. A quarterly magazine of the International Monetary Fund, March 1999, Vol. 1, Number 1. https://www.imf.org/external/pubs/ft/fandd/1999/03/polackov.htm#:~:text=Contingent%20explicit%20 liabilities%20are%20legal,only%20if%20particular%20events%20occur.

¹⁰⁷ Commonwealth Secretariat, Global Infrastructure Anti-Corruption Centre (GIACC) and Royal Institution of Chartered Surveyors (RICS) (2021). Commonwealth Anti-Corruption Benchmarks. https://www.thecommonwealth-ilibrary.org/index. php/comsec/catalog/book/734.

Lack of fiscal transparency, undue influence from private or individual interests, poor planning and resource allocation based on private or personal interests may lead to misallocated resources, the so-called "white elephants" – expensive projects which deliver a technical solution that does not work as intended, is neither needed nor used, or that delivers no added benefit.

Good practice checklist

- Did the PFM framework in place ensure financial accountability and transparency throughout the project implementation phase?
- Did the public authority encourage meaningful and feasible internal and external oversight and put in place means for the prevention of conflicts of interest in managing public finances?
- Did the PFM framework ensure effective risk management?

Project good practices

The objective of the La Guajira Water and Sanitation Infrastructure and Service Management project was to improve the quality of the water supply and sanitation (WSS) services in urban areas of La Guajira, Colombia.

The Government of Colombia faced a number of challenges with this project which was located in one of its most underdeveloped regions, experiencing chronic droughts. Compounding the challenges were low institutional capacity and political volatility creating a backlog in infrastructure investment, operation and maintenance. Only 68.2 per cent of the population had water connections, and just 35.1 per cent had sewerage connections. The Wayuu indigenous people living in rural areas walked miles daily to collect water and relied on untreated rainwater, resulting in a high incidence of water-borne diseases.

The US\$158 million project, funded by the World Bank, improved WSS services for 422,269 beneficiaries in La Guajira's poorest areas, of whom around 51 per cent were female. In urban areas, the project delivered much-needed WSS infrastructure and enhanced utilities' institutional performance. 8,881 indigenous Wayuu people gained access to improved water sources, far exceeding the target of 3,500 people. 108

¹⁰⁸ World Bank, Independent Evaluation Group (IEG). La Guajira Water and Sanit. (P096965). Implementation Completion Report (ICR) Review, Report Number: ICRR0021445. https://documents1.worldbank.org/curated/en/884261555959116119/pdf/Colombia-La-Guajira-Water-and-Sanit.pdf.

This PPP project sought to strengthen the institutional performance of municipal public companies by involving the private sector. The capital investment created an enabling environment that attracted private specialized operators which, in turn, facilitated their engagement in developing infrastructure and improving utilities' institutional performance. This was a method already used by the World Bank elsewhere in Colombia. Building on previous successful experiences was an important aspect of the project.

Overall, it should be noted that the efficacy and efficiency of this pilot project were assessed as "modest" according to project reports because of the considerable governance challenges requiring intense supervision by the World Bank and periodic restructuring. However, given the legal and social context, the fact that the project was finally delivered without major outright losses due to corruption can be considered an achievement.

Ensuring financial accountability throughout the project

At the needs assessment stage of the project, the issue of governance was identified as a key impediment to the improvement in the quality of water services in La Guajira. The World Bank assessment report described governance issues as "a history of political instability and underground economy, corruption, unanswered claims from civil society and NGOs, lack of credibility of politicians and political institutions, and...the continued presence of illegal armed groups."¹¹⁰

The aim of the project was not only to improve the infrastructure and availability of water but to enhance management capabilities and address concomitant local governance challenges. While this relatively small regional project was never intended to reform the entire governance structure throughout the public administration, it was able to act as a demonstration pilot to enhance sector efficiency and economies of scale.

The project team put together a Project Transparency and Accountability Strategy and Risk Control Matrix consisting of 10 design elements, most of which were related to enhancing the rigour and integrity of PFM at the project level, in particular the public expenditure and financial management aspects of the project.

In early discussions, stakeholders had expressed a high level of trust in central government institutions, as opposed to local government institutions. The institutional arrangements for the project included a series of checks and balances, oversight by national entities, the World Bank, and stakeholder and citizen groups, aiming to create an environment of regular control and monitoring and to enhance transparency.

¹⁰⁹ Ibid.

¹¹⁰ World Bank (2007). Project Appraisal Document on a Proposed Loan in the Amount of US\$90 Million to the Department of La Guajira with the Guarantee of the Republic of Colombia for a La Guajira Water and Sanitation Infrastructure and Service Management Project in Support of the First Phase of the Water and Sanitation Infrastructure and Service Management Programme, Report No: 38508-CO. https://ppp.worldbank.org/public-private-partnership/sites/ppp.worldbank.org/files/ ppp_testdumb/documents/Guajira_38508.pdf.

For example, public officials did not handle project resources. The World Bank transferred funds directly to contractors through competitively selected commercial fiduciaries – specialized trust banks supervised by the banking regulator in Colombia.

In order to mitigate the risk of inappropriate use of technology or substandard materials, the works were selected by specialized operators. As the companies were ultimately accountable for the maintenance and operation of the equipment following construction, they had the greatest incentive to ensure that the works had the appropriate design specifications and met quality standards. The technical management team carried out spot checks of works implementation with external, specialized engineering consultants to ensure project oversight.

Furthermore, royalty revenues were ringfenced, passing directly to the fiduciaries without passing through the regional treasury. This ensured the availability of cash flow for investment and repayment and guaranteed transparency in an environment in which it had been severely lacking.

Encouraging internal and external oversight and preventing conflicts of interest in managing public finances

In order to ensure sound financial management, the World Bank appointed a local but independent technical management team with expertise in public procurement, financial management, and project management. With reporting lines directly to the Governor and to World Bank staff, the technical team played an important supervisory and capacity-building role.

The initial analysis suggested that a key corruption risk in La Guajira was inflated bid prices due to collusion and the payment of kickbacks, protection money and patronage. Publishing "open data" on the tender and exposing cost differences between La Guajira and other regions undermined corrupt agents' traditional commercial model.

The procurement procedure was designed to give the World Bank enhanced control throughout the process. Specific actions for greater transparency included contractual terms providing auditing rights to the Bank and anti-corruption, anti-fraud and sanctions clauses. Bidding documents included cost estimates. There was a high level of openness in announcing the bid, including outside of the La Guajira region and reporting bidding results transparently–hoping to reveal any attempts at collusion.

As in the other projects highlighted in this publication, there was a special effort to include citizen participation. Throughout the project, there was an ongoing public outreach campaign, dissemination, and feedback. Public concerns, complaints and grievances – including whistle-blowing of corrupt behaviour or uncompetitive practices – were handled by specialized independent consultants.

A broad communications strategy aimed at key stakeholders explained the objectives of the project and the design elements established to reduce the corruption risk to the local community.

In order to mitigate the risk of inappropriate use of technology or substandard materials, the works were selected by specialized operators.

Effective risk management

Finally, as an early warning system, the World Bank took a rigorous hands-on approach to the project, conducting quarterly (rather than biannual) supervision missions from Washington D.C. and Bogota, hiring local full-time project supervisors, and establishing a multidisciplinary team of experts in financial management, social and environmental management and indigenous rights.¹¹¹

Project Transparency and Accountability Strategy and Risk Control Matrix which was part of the project assessment report enabled the project's "high inherent risk" to be lowered to "moderate", thus allowing the World Bank and the government to proceed with the project.

Learnings and conclusions

This project provides a number of important insights. It demonstrates the importance of consistent and transparent PFM in the government and how this can be transferred to the project level. Indeed, PFM in government and in project implementation are quite intertwined.

Even in a difficult environment, corruption risks can be mitigated at the project level. In order to do this, a rigorous and transparent analysis of the risks, undertaken in parallel with the needs assessment and project planning, is essential.



¹¹¹ World Bank, Independent Evaluation Group (IEG). La Guajira Water and Sanit. (P096965), Implementation Completion Report (ICR) Review. Report Number: ICRR0021445. p. 11. https://documents1.worldbank.org/curated/en/884261555959116119/pdf/Colombia-La-Guajira-Water-and-Sanit.pdf.

Allocating staff with the right skills and appropriate resources to manage the project on the ground is an important part of translating the rules and procedures of PFM to the project level. National and local governments may or may not have the capacity or funds to manage projects, and to identify possible corrupt players. Corruption risks need to be identified and designed out of the project cycle from the beginning.

Along with the expertise and skills, there should be clear reporting lines to the top level of the government and to staff in MDBs who have the technical knowledge and experience to support the project. A strong control mechanism, training and capacity-building of government officials, and where necessary, use of MDBs expert resources can help to control and monitor public expenditures.

Project design and structuring can benefit from the experience of other projects funded by MDBs or those within the same country or region.

In this project, community-based approaches rather than top-down approaches were shown to be effective. Throughout the project, stakeholder consultation and community outreach helped with the preparation of the structure of the project, budgeting, procurement and implementation in a transparent manner.

Social accountability methods involving communities, citizens, media and NGOs can support budget analysis, expenditure tracking and corruption monitoring. Such tools complement the formal accountability instruments of state control agencies, public authorities and the MDBs to help build good governance and enhance integrity in international investment projects. ¹¹²

GPM 4:

Appropriate project specification and procurement design

Ensure that the project specification and procurement process design in international investment projects are not restrictive or tailored and encourage fair and open competition. Ensure thorough due diligence of bidders.

At the pre-tender stage, the design and communication of accurate and well-formulated terms of reference, clear specifications of technical requirements, and well-defined evaluation criteria for projects are essential to ensure that procurement is conducted in a transparent and accountable

¹¹² World Bank. Financial management (FM) activities in support of Governance and Anticorruption (GAC) Implementation (draft). https://web.worldbank.org/archive/website01531/WEB/IMAGES/FM_ACTIV.PDF.

Larry Haas, Leonardo Mazzei, Donal O'Leary (2007). Setting Standards for Communication and Governance: The Example of Infrastructure Projects. World Bank Working Paper No. 121, World Bank, Washington, DC. https://openknowledge. worldbank.org/bitstream/handle/10986/6709/405620Setting018082137169501PUBLIC1.pdf?sequence=1&isAllowed=y.

manner.¹¹³ The pre-tender phase has two distinct features: 1) a substantive aspect, which involves the technical specification of the project, and 2) a procedural aspect, which covers the design of the bidding procedures. A well-conducted pre-tender phase will attract competition from a number of well-qualified bidders operating to the highest professional and ethical standards.

The technical specification is a critical component in ensuring that the project will deliver the required outcome. Poor specification can lead to sub-standard equipment and materials being used, and a specification that has been manipulated by corrupt officials or bidders can restrict competitors from participating, for example, by narrowing the technical criteria to the point that only one vendor can participate in the tender.

To minimize corruption risks in the pre-tender phase, adequate and transparent oversight mechanisms in project design and planning procedures and information sharing between the contracting authority and potential suppliers have been recommended by experts.¹¹⁴

In order to achieve a level of confidence in the bidders' technical, professional, and ethical competence, it is a must to gain maximum information about bidding companies and, where necessary, to insist on a pre-qualification procedure.

Within this process, seeking to balance quality, competition, and integrity can create tension. Bidders for large international projects must have a strong track record of delivering complex and large projects and exhibit technological know-how. Indeed, in some bids, they may need to be pre-qualified. Pre-qualification of large companies that often possess the required technical capabilities frequently brings broader integrity risks to light, especially when corporate leaders are politically affiliated. Large companies may, for example, have (former) elected officials serving on their board(s), or have donated money or rendered in-kind services to political parties. Moreover, SMEs may not have a fair chance to bid, even if they are well qualified technically or highly price competitive, if the terms of reference are too restrictive.

Box 9

Private sector compliance approaches

Multinational companies from the developed world, and increasingly local companies from developing countries, have introduced compliance programmes and systems designed to reduce the likelihood of the company exposing itself to corrupt practices. These have become increasingly sophisticated as governments have become more efficient at detecting and prosecuting corrupt behaviour. However, these are by no means universal.

There are some new approaches emerging, whereby governments can insist on certain standards of ethics and integrity be adhered to by companies wishing to participate in public tenders.

¹¹³ A detailed discussion of the importance of project preparation at the earliest phases of a project can be found at: Jill Wells (2015). Corruption in the Construction of Public Infrastructure: Critical Issues in Project Preparation. U4 Anti-Corruption Resource Centre. https://www.cmi.no/publications/5470-corruption-in-the-construction-of-public.

¹¹⁴ OECD (2009). Principles for Integrity in Public Procurement, OECD Publishing. https://www.oecd.org/gov/ethics/48994520.pdf.

A business grouping, the B20 Taskforce for Compliance and Integrity, under the Saudi G20 presidency in 2020 called for governments to "establish clear and consistent incentives to reward high standards of ethical business conduct in the context of public procurement". It held that "G20 members should have clearly articulated policies to provide incentives through invitation to public procurement opportunities to companies that are able to demonstrate high quality ethics, integrity, and compliance standards. Ethics, integrity, and compliance should be covered either as part of procurement pre-qualification criteria or tender evaluation criteria".

The B20 companies further recommended the submission of beneficial ownership information to be mandatory and suggested introducing an option of "conditional non-debarment" whereby offending companies may be allowed to continue with commercial activities on condition that they adopt an effective corporate compliance programme, often under an approved compliance monitorship. Finally, they recommended developing "Integrity Pacts" – an agreement where bidders all agree to ensure transparency and fairness in the tender process by avoiding corrupt activities.

Thorough due diligence will expose any relationships that might undermine fair competition. Red flags might include family relationships or friendships between individuals in decision-making positions in government and in bidding companies; ownership by government officials of property or companies which might be set to benefit from the successful outcome of the project; the involvement of politically exposed persons at any stage of the project; previous commercial relationships between rival bidders which might indicate a risk of collusion; and other causes to suspect a conflict of interest. Some bidders may be on debarment lists and ineligible to bid. 115

To mitigate integrity risks, governments increasingly encourage responsible business practices amongst suppliers in public contracts. While the "incentivization" of good conduct may not have the same strong impact as the punishment of poor conduct might have, as an indicator of intent, the new commitment by governments to the highest standards of integrity certainly makes clear how bidding companies are expected to behave. Box 9 above highlights some innovative ideas for incentivizing integrity amongst bidders.

Integrity challenges

The poor implementation of this GPM can have an extremely disruptive impact on the project as a whole. Shortcomings, including corruption, in both the substantive and procedural aspects of the procurement, can delay the completion of large-scale projects and lower the quality of the finished infrastructure, leading to long-term financial, social, and human costs. This can undermine the ability of the contracting authority to deliver projects effectively and transparently. The outcome can be the acquisition of products or services that are not the best (or even a good) option for achieving the desired results for the beneficiaries.

¹¹⁵ Jonathan Shapiro, "Companies are part of the solution with conditional non-debarment", The FCPA Blog, 8 June 2020. https://fcpablog.com/2020/06/08/companies-are-part-of-the-solution-with-conditional-non-debarment/.

A common method of restricting competition is to narrow the technological or technical criteria so that only one company is technically qualified to provide the product. This has far-reaching consequences for the project which may be forced to pay far more than the normal price. An unnecessarily restrictive technical specification will also impact the cost of implementing the project where staff may not be qualified or sufficiently trained to operate the equipment.

The Ghana Awoshie Pokuase Project¹¹⁶ is a case in point. It illustrates the milder consequences of a lack of discipline in the technical specification. The project evaluator reported that "the project design had to be amended in several instances, which could have been avoided with better preparation. This, together with cost escalations, led to underestimates in the bills of quantities. This, in turn, led to insufficient funds and some of the community facilities planned had to be cut back. The extent of both authorized and non-authorized structures within the right of way was underestimated". The evaluator stated that "the design review prior to implementation did not pick up the issues of traffic control and accommodation that later delayed the project. Frequent Bank supervision missions (conducted by AfDB) and support from the local field office led to recommendations and action plans that improved project implementation and curtailed further delays and cost overruns on the project". ¹¹⁸

There are more serious examples where design flaws in the pre-tender phase are directly related to a range of corrupt behaviours: for example, collusion between suppliers and the client to restrict competition; bribery of political officials by bidders to conspire and to rig procurement qualification and evaluation criteria; bribery by potential suppliers of, or collusion with, design consultants to rig specifications; use of subjective and incomplete technical criteria to disqualify competing bidders; indeed, in some projects, the entire market of contractors and suppliers may be implicated in corrupt schemes in project design. This has resulted in the winning contractor, having colluded with others in distorting the technical design and bidding procedure for a project, being unable to perform according to the contracted terms and conditions. Cutting corners, inferior materials, cheap, unqualified, or illegal labour are all common techniques for maximizing private interest at the expense of public finance. Exceptions to competitive tendering on the basis of national security or emergencies are often granted, even when, with hindsight, they turn out to be unjustified.¹¹⁹

Such corrupt behaviours underpinned many of the Odebrecht construction projects, one of the largest corruption case in history that sent shockwaves through the world. The Odebrecht story, which implicated political leaders and others in positions of responsibility in 12 Latin American countries, serves as a reminder that an adequately designed pre-tender process is crucial in order to decrease opportunities for corruption, particularly in large infrastructure projects.

¹¹⁶ AfDB, Evaluation Report, Ghana Awoshie Pokuase Road. p. 16. https://evrd.afdb.org/documents/docs/PN10704_SR_EN.pdf.

¹¹⁷ Ibid.

¹¹⁸ Ibid.

¹¹⁹ UNODC (2013). Guidebook on anti-corruption in public procurement and the management of public finances. United Nations Publication, p. 6. https://www.unodc.org/documents/corruption/Publications/2013/Guidebook_on_anti-corruption_in_public_procurement_and_the_management_of_public_finances.pdf.

¹²⁰ Nicolás Campos, Eduardo Engel, Ronald D. Fischer, and Alexander Galetovic (2021) "The Ways of Corruption in Infrastructure: Lessons from the Odebrecht Case." *Journal of Economic Perspectives*, 35 (2), pp. 171–190. https://www.aeaweb.org/articles?id=10.1257/jep.35.2.171.

The negative financial and economic impact of corrupt activity at this stage of the bidding process on the cost-effectiveness and value for money of the project are well documented. With the erosion of price and service competition, the public authority runs the risk of ending up with a more expensive and low-quality outcome.

There are also potential social costs: new entrants to the market, start-ups, SMEs, and womenled enterprises, all of which might have innovative technical solutions and cost advantages compared to traditional players, may be excluded from the tender process due to corrupt conduct in defining the technical specification or the choice of the bidding method. This can have enormous social consequences for a significant part of the society and economy, especially in low-income countries.

Good practice checklist

- When determining the project specifications and designing the tender procedures, did the procuring entity consider balancing the need to encourage as many bidders as possible to participate with the specific technical requirements of the project?
- Did the procuring entity provide clear guidance to bidders about integrity expectations and eligibility criteria?
- Did the procuring entity conduct a thorough due diligence on bidders?

Project good practices

Two projects provide examples of good practices during the pre-tender phase:

The Ain Sokhna 1300 MW Supercritical Thermal Power Plant in Egypt was a US\$1.361 billion flagship project mainly financed by the AfDB.¹²¹ It was designed to utilize the established state-of-the-art high-efficiency modern technology (supercritical boilers) to address the electricity demand in the power sector in Egypt in an economically, financially, socially and environmentally feasible way. The project has made a positive impact on power generation efficiency technology in Africa as it was the first to introduce supercritical boilers/technology in power generation to Africa.

This project provides examples of good practices in encouraging bidder participation during the pre-tender phase.

¹²¹ AfDB, "Egypt – The Ain Sokhma Thermal Power Project", The AfDB Data Portal. https://projectsportal.afdb.org/dataportal/ VProject/show/P-EG-FAA-014.

In 2016, Argentina's RenovAR renewable energy plan set itself a goal of increasing energy generation from renewable sources to reach 20 per cent of the country's demand by 2025. In this diverse and ground-breaking programme encompassing wind, solar, small hydro, biogas, and biomass projects, the government has to date awarded 244 projects, adding more than 6,300 MW of installed capacity of renewable energies. This PPP, structured by the World Bank and the IFC, has been held up as a model project for attracting investment from multilateral banks and institutional investors to emerging economies, competitive tendering and the creation of new (in this case, energy) markets. The IFC has also presented this project as an example of "scaling infrastructure"— a "holistic approach" that "creates a pipeline of infrastructure projects", and the essence of which is to develop a robust PPP model for a single deal and then replicate it. 123

At the pre-tender phase, this project provides models of good practice in bidder participation, conducting due diligence of bidders and defining their eligibility criteria.

Encouraging bidder participation in Egypt

In Egypt, the procurement system is decentralized. Act No. 182/2018, which has superseded previous procurement legislation, promotes transparency and fairness in government procurement and encourages competition on the basis of objective criteria. An electronic portal for government procurement has been set up to ensure transparency in competition. Calls for tenders are advertised publicly, both in newspapers and online, and include the relevant criteria to be met and the deadlines for the bidding process. Bids are submitted in two sealed envelopes, one containing the technical proposal and the other the financial proposal. The contracting authority is required to establish both a bid examination committee and an awards committee, which must issue a comprehensive report on the process and the outcome. Procurement personnel must obtain special qualifications and undergo special training.¹²⁴

¹²² International Trade Administration (US), "Argentina – Country Commercial Guide", 4 August 2022. https://www.trade.gov/country-commercial-guides/argentina-renewable-energy.

¹²³ International Finance Corporation. RenovAr (Argentina): Scaling 'Express Edition'. Scaling Infrastructure. https://www.ifc.org/wps/wcm/connect/987eeec6-6259-4c00-8e21-fbf49813a47b/scaling-infra-argentina-08.pdf?MOD=AJPERES&CVID=mSCMXzz.

¹²⁴ United Nations, Conference of the States Parties to the United Nations Convention against Corruption, Implementation Review Group. Note prepared by the Secretariat. Executive Summary of the review of Egypt. 10 January 2020. CAC/COSP/IRG/II/2/1/Add.10 https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries2/V2000131e.pdf.

According to the project assessment, the procurement process complied with the legislation. The post-project assessment confirms that it also followed the ICB procedures during implementation. According to the ICB, pre-qualification of bidders was mandatory. Standard Bidding Documents (SBDs) were issued. These were "templates for the project manager to use." They outlined in clear language the terms of reference and explained the specificities and details of the work according to an established outline. A General Procurement Notice (GPN) and a Specific Procurement Notice (SPN) were issued in a timely fashion in accordance with the ICB standard formats and published through a wide range of publications including UN bulletins such as UN Development Business. 125

Public consultations were conducted with a wide range of potential bidders to ensure that the market was fully informed about the project and to encourage innovative and optimal technological solutions. The project documents suggest that the technical specification was conducted in an open and transparent manner.



Grid of the Ain Sokhna 1300 MW Supercritical Thermal Power Plant

Despite these efforts, the project documents point to the Egyptian Electricity Holding Company's (EEHC's) concern about a reduction in the number and variety of bidders due to the overall high demand for power supply equipment. This was the first time that the proposed technology was procured in Egypt, and there had been a very high demand for this technology worldwide in previous years, resulting in a limited market appetite for the proposed bid opportunity.

To mitigate this, EEHC took additional measures to inform the market: they organized a workshop for potential bidders to present the proposed project and related bidding

¹²⁵ AfDB financed projects must include a GPN published by the Bank and the Borrower, in the United Nations Development Business Journal (UNDB), upon the approval of each Loan or Grant, by the Bank's Board of Directors. Subsequently, for all bids where ICB is being used, Specific Procurement Notices (SPN) are published in the UNDB and in the respective national press in the Borrower's country. GPNs and SPNs are also published in the Bank's AfDB Business Bulletin, which is published monthly, by the Procurement Unit, and is also available on the Website.

opportunities. By all accounts, this generated considerable public interest since 70 potential bidders attended.¹²⁶

Ultimately, the widest possible participation of bidders was guaranteed by the specification of the technology. The selection of a globally well-established technology was based on a holistic planning approach deliberately chosen to limit the opportunity for public officials to tailor and design the project to a technology possessed by a limited number of bidders. This project design enabled all qualified bidders who possessed the technology to apply to be considered for selection.

Strict eligibility criteria in Argentina

The RenovAR project in Argentina faced a number of challenges. On the one hand, the project was considered to have relatively high risks, given the lack of experience in the country of international public procurement and renewable energy projects. To ensure the most competitive bids, the tender authorities wanted to attract the largest number of bidders. The World Bank provided a \$500 million payment guarantee facility which helped to compensate for bidders' real or perceived risks.

With such risks and potential exposure, there was a need to ensure not only a high number of suppliers but also high quality. The criteria for participating in the tender and for accessing the World Bank guarantee had to be of the highest order. According to the call for tenders, bidders should have the "capacity to manage social and environmental aspects of the project" which were set out in detail in the same document, and "to have not been penalized according to the World Bank penalties procedures due to failure to comply with World Bank anti-corruption policies". Furthermore, bidders need to comply with the "Standards on Prohibited Practices of the World Bank". The Standards referred to have since been replaced with the World Bank Group Integrity Compliance Guidelines and the more detailed Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants and Orange various aspects of misconduct, including "fraud, corruption, collusion, coercive and obstructive practices". These terms are reproduced in anti-corruption and fraud clauses in the World Bank's Procurement Regulations and are included as a matter of course in the World Bank's standard contracts. The standard contracts of the World Bank's standard contracts.

¹²⁶ World Bank (2009). Project Appraisal Document on a Proposed Loan in the Amount of US\$600 million to the Arab Republic of Egypt for Ain Sokhna Power Project, Report No: 46695-EG, World Bank, Washington DC. https://documents1.worldbank.org/curated/en/513261468246919419/pdf/466950PAD0R200101OFFICIAL0USE0ONLY1.pdf.

¹²⁷ World Bank (2016). RenovAr Program. Round 1. Request for Proposals. clauses 25 and 26. https://ppp.worldbank.org/public-private-partnership/sites/ppp.worldbank.org/files/documents/RenovAr%20Round%201%20-%20Request%20for%20 Proposals%20with%20Annexes%20%28fv%2007-25-2016%29%20%28English%20Version%29.pdf.

¹²⁸ World Bank. Summary of World Bank Group. Integrity Compliance Guidelines. https://www.worldbank.org/content/dam/documents/sanctions/other-documents/sanctions-board/Summary%20of%20Integrity%20Compliance%20Guidelines.pdf.

¹²⁹ World Bank (2011). Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD loans and IDA credits and grants. Washington. DC. https://documents1.worldbank.org/curated/en/551241468161367060/pdf/611090 BR0SecM21Disclosed04113120111.pdf.

¹³⁰ World Bank (2020). Procurement Regulations for IPF Borrowers. Procurement in Investment Project Financing. 4th ed. Washington. DC. https://thedocs.worldbank.org/en/doc/178331533065871195-0290022020/original/ProcurementRegulations.pdf.

High expectations placed on bidders are not the sole domain of projects structured or guaranteed by the MDBs; some national governments take an equally demanding approach, for example, in the United States where contractual "terms and conditions" in public contracts are prescribed by statutes and regulations in the form of the 2,000+ page Federal Acquisition Regulation (FAR).¹³¹ In FAR Section 203.10, federal government contractors are required to "conduct themselves with the highest degree of integrity and honesty" and to have a written code of business ethics and conduct, an employee business ethics and compliance training programme and an internal control system. Furthermore, these programmes and systems should be suitable to the size of the company and extent of its involvement in government contracting, facilitate timely discovery and disclosure of improper conduct and ensure corrective measures are promptly instituted and carried out. This compliance programme requirement must be included in solicitations and contracts if the value of the contract is expected to exceed US\$5.5 million and the performance period is 120 days or more.¹³²

Conducting due diligence in international investment projects

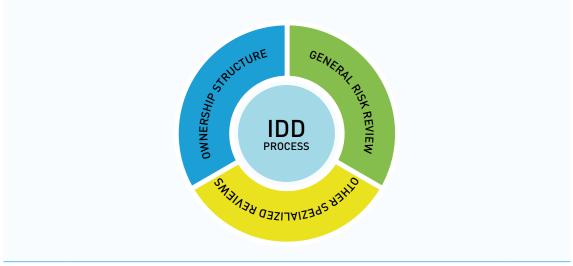
The RenovAR project in Argentina, as mentioned earlier, is part of an IFC "scaling infrastructure" initiative. For the projects under the initiative, the World Bank Group investment and advisory services are offered under a single package that includes technical advice to identify and define projects, assessing the right size and location and preparing the selected sites; and simple and rapid tender management and other services.

One of these services was extensive due diligence on the bidders in the power generation auctions. This process is applied in most IFC projects, but in the "Scaling Infrastructure" projects, due diligence was carried out using the IFC's Integrity Due Diligence (IDD) methodology. Given the long-term, strategic nature of renewable energy projects, host governments wanted to be sure that the private sector developers responsible for building and operating each power generation unit are reliable partners.

¹³¹ National Aeronautics and Space Administration (2019). Federal Acquisition Regulation. https://acquisition-staging.gsa.gov/sites/default/files/archives/far/pdf/2022-04.pdf.

¹³² Fred Geldon, "How Government Contractors and Compliance Officers Can Navigate Unique Rules and Risks," Corporate Compliance Insights, 21 October 2019. https://www.corporatecomplianceinsights.com/government-contractors-compliance-risks/.

Figure 3: IFC's Integrity Due Diligence Process



Source: International Finance Corporation. Unique Markets, Responsible Investing: IFC's Integrity Due Diligence Process, International Finance Corporation, Washington, D.C., 2021. https://www.ifc.org/wps/wcm/connect/90f4efde-ba09-477b-9de5-ed13b0091b7d/202103-IFC-Integrity-Due-Diligence-Process.pdf?MOD=AJPERES&CVID=nvVYyTU

The purpose of the IFC's IDD process is to understand the ownership structure of the client and its partners, determine the ultimate beneficial owners, and identify integrity risks, such as corruption, fraud, money-laundering, tax evasion, lack of transparency and undue political influence associated with the project. As part of its IDD process, IFC conducts in-depth due diligence to understand the structures used by its clients. This involves preparing a financial model to simulate a bankable project finance structure, and recommending solutions for key operations-related commercial, legal, regulatory, technical, and system issues.

Learnings and conclusions

The two projects in this GPM were both prominent, strategic, complex, and high-risk. Many projects of this size and complexity have suffered from corruption and lack of integrity.

Publishing a clearly articulated prequalification specification, criteria for the selection of bids and eligibility standards all contributed to a project which encouraged competition amongst a broad range of companies.

A rigorous due diligence system which allowed the contracting authority to pre-qualify suppliers from a point of view of competence, value for money and integrity and clear and comprehensive integrity requirements for eligibility of suppliers were also a must.

Thanks to the funding from the World Bank and the procurement structure designed by the IFC, in particular, the meticulous detail to the bidding process, most of the corruption and integrity risks seemed to have been minimized. The procurement process was accompanied by very clear rules and regulations and conditions of eligibility.

Phase 1 Phase 2 Phase 3 Phase 4 Phase 5

PHASE 3: CONTRACT AWARDING (TENDER)

The tender stage is where the contractor is selected to implement the project. At this stage, an invitation to tender is issued, bids are prepared and submitted by interested parties, and the winning bid is selected, following which a contract is signed for the execution of the project. This stage of the process includes bidding, bid evaluation and contract award.

The Convention's legal requirements for this phase are identical to those cited in the pre-tender phase earlier. Article 9(1)(c) calls for the "use of objective and predetermined criteria for public procurement decisions", and article 9(1)(d) insists upon an "effective system of domestic review".

GPM 5:

Fair and transparent tendering process

A fair and transparent tender and bidding process, including timely and adequate dissemination of tender offers and documents, is in place to ensure that contracts are awarded to the most qualified vendor(s) and that the results of the bidding process are publicly disclosed in a timely fashion. Ensure that a fair system is in place to deal with complaints from bidders.

At the center of the international investment process is the tender and bidding process. It is the moment of conversion of the critical earlier stages, such as needs assessment and financial preparation, into the implementation stage.

GPM 5 focuses on creating a fair and transparent tender process which encourages open competition from an optimal number of qualified candidates. Both the procuring authority and the bidders need to subscribe to the highest standards of integrity to achieve a fair and transparent tender process.

Public authorities organizing a tender for an international investment project will therefore need to make sure that a rigorous process for assessing the technical competence of the bid is in place, which ensures the price/value for money ratio, without compromising the integrity of the process. The commitment of the vendors to the best standards of integrity is equally important.

The procurement process design revolves primarily around the bidding methods. There are a number of bidding methods which can be chosen depending on the project complexity, the number of potential suppliers, and other factors. The main distinction is between open tendering and restricted tendering which reflects the relative importance of low cost versus the provision of highly specialized services requiring pre-qualification of suppliers. Several variations exist on these themes, such as a Request for Proposal, framework contracts, single- and two-stage tendering, and reverse tendering. In certain circumstances, a single source procurement can be permitted. This non-competitive approach is acceptable in emergencies when there is a very specific set of skills or technical specifications required which is provided by a single supplier. However, this method should undergo a strict approval process and supervision.

This variety in bidding methods is a complex matter, and depends on local circumstances, the complexity and size of the project, financial thresholds, and the nature of the products and services being procured. A valuable source of further information on this subject is the UNCITRAL Model Law and the Guide to the Enactment of the Model Law.¹³³

A complaint procedure is critical for ensuring reporting of misconduct. According to the World Bank, "competition is cleaner, and kickbacks are fewer and smaller in places where transparent procurement, independent complaint procedures and external auditing are in place".¹³⁴

There are many sources of complaints and many forms of complaint mechanisms. Firstly, there are complaints or "challenges" to the procurement process itself, for example, a challenge from an unsuccessful bidder who suspects corrupt activity or unfair play by competitors in a tender. It is now quite standard to have the complaint procedures included as part of public tenders. But to be effective, the mechanism needs to have a number of important attributes for people to trust and use it. It needs to be simple to set up, easy to use, and straightforward to access. It needs to offer the option of anonymity to the complainant, and complainants should be protected by whistle-blower protection legislation. An independent commission to review complaints is critical. Finally, there should be a prompt turnaround of complaints, properly documented and leading to sanctions and redress to give confidence that something will be done about the complaint. Guidance around the institutional and legal arrangements that governments can follow to set up a functioning challenge mechanism is provided in Chapter VIII of UNCITRAL's Guide to the Enactment of the Model Law.¹³⁵

¹³³ UNCITRAL (2012). Guide to Enactment of the UNCITRAL Model Law on Public Procurement. https://uncitral.un.org/en/texts/procurement/modellaw/public_procurement/guide.

¹³⁴ World Bank (2020). Enhancing Government Effectiveness and Transparency: The Fight Against Corruption. Washington, D.C., p. 58. https://documents1.worldbank.org/curated/en/235541600116631094/pdf/Enhancing-Government-Effectiveness-and-Transparency-The-Fight-Against-Corruption.pdf.

¹³⁵ UNCITRAL (2012). Guide to Enactment of the UNCITRAL Model Law on Public Procurement. pp. 295–328. https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/guide-enactment-model-law-public-procurement-e.pdf.

The second kind of mechanism is the community complaint mechanism.¹³⁶ It typically fulfils three major functions: 1) ensuring that an effective service is made available for anyone in the community willing to report wrongdoings; 2) ensuring that an immediate and thorough investigation is undertaken after a complaint is made; and 3) making sure that all possible action is taken to support the victim and seek redress. Such mechanisms are particularly important for development projects and humanitarian aid projects, but also feature prominently in large-scale infrastructure projects such as those described in this publication.

Thirdly, in recent years, governments running international investment projects and large-scale procurement procedures have been piloting innovative "collective action" approaches to minimizing the risk of corruption in international investment projects: the Integrity Pact and the High-Level Reporting Mechanism (HLRM).

The Integrity Pact is a written commitment to integrity made by bidders, suppliers, contractors, and/or consultants as part of the tender and contract process, with varying types of related potential enforcement. The government agency issuing the tender may also be a signatory to the Integrity Pact. A variation of the Integrity Pact is the third-party monitoring of the tender procedure and in some cases, such as the EU cases below, the project implementation phase. While it is not known whether Integrity Pacts really do curtail corruption, the general consensus is that this is an additional means to ensure that all participants in a tender are following the same rule book and that there is a shared and mutually recognized mechanism for raising concerns.¹³⁷

Pioneered by the Basel Institute of Governance, the HLRM is a channel to raise and quickly resolve alerts about suspected bribery or unfair business practices in public tenders. It enables alerts about suspected bribery or unfair business practices in public tenders to be raised through secure and easily accessible channels which are subsequently communicated to a designated independent panel of experts. The panel of experts works to provide a transparent resolution through open discussion and mediation.¹³⁸

Integrity challenges

This stage of the procurement process, the point at which contracts are awarded, and thus the decision is made to purchase products and services from suppliers, is particularly vulnerable to corruption risks.

The decision to award contracts to companies has many impacts—the ability to meet the social needs of the country from which the project originates, the quality, efficiency, safety and resilience of the project, the contribution of the project to economic and social development and the ability

¹³⁶ Marie Chêne (2013), "Good Practice in Community Complaints Mechanisms", Transparency International, Anti-Corruption Helpdesk, 5 April 2013. https://www.transparency.org/files/content/corruptionqas/Complaint_mechanisms.pdf#:~:text=Complaints%20mechanisms%20can%20increase%20accountability%20to%20aid%20 beneficiaries,CONTENT%20Key%20features%20of%20good%20practice%20complaints%20mechanisms.

¹³⁷ For more information on the theory and practice of Integrity Pacts. https://collective-action.com/explore/integrity-pacts/.

¹³⁸ Basel Institute on Governance (2022). Engaging the private sector in collective action against corruption. p. 10. 134ffef4-0df7-44ab-8f13-5dcd07ff4928 (baselgovernance.org).

of the project to avoid negative impact on the environment. Above all, the procurement reflects the underlying integrity of the project and answers to what extent government and investor funds are really being used for the stated purposes.

There are many integrity challenges in procurement that have been documented at length. Bribery, fraud and other forms of corruption can impact decision-making at each and every stage of the procurement process. A few examples that illustrate the key integrity risks at the tender stage follow.

During the call for bids, public officials could decide which enterprises to invite to the tender by keeping the project/acquisition secret as long as possible, inviting competitors to the tender which are not genuine competitors (or even companies) or not inviting *bona fide* competitors at all.

There are integrity challenges in any pre-qualification stage. The list of qualified bidders could be shortened for a price, thus excluding competitive companies which were either not solicited for a bribe or were unwilling to pay it. A variation of this is where the pre-qualified companies share the contract amongst themselves in the form of collusion. They could offset the cost of the bribe with pre-agreed inflated prices when bidding.

When information is selectively withheld from the market, this may disadvantage companies that are qualified but not privy to inside information about the tender criteria. There is always a discretionary element in most bids, and in cases where the criteria underpinning the discretionary element are not made equally clear to all competitors, this provides an opening to uncompetitive practices by officials who have shared valuable information about the elements with their "preferred" bidders which will give them a competitive edge. The same could apply at the final negotiation stage when an official allows their preferred bidder to get a competitive advantage by sharing crucial information about the competitor's offer.¹³⁹

Good practice checklist

- Did the procuring entity conduct a fair and open tender for which procedures and processes were designed and publicly declared beforehand?
- Did the procuring entity have procedures, rules and regulations for grievance mechanisms, including the system of appeal and legal recourse or remedies?
- Did the contracting authority ask the bidders to sign an Integrity Pact?

¹³⁹ Tina Søreide, "Corruption in public procurement Causes, consequences and cures", Chr. Michelsen Institute, Report R, 2002:1. https://www.cmi.no/publications/file/843-corruption-in-public-procurement-causes.pdf.

Project good practices

A fair and open tender in Argentina

The RenovAR project used a reverse bidding process for the right to build and operate various renewable energy generating facilities.

The overall process was designed to deliver a high level of transparency. The tender was advertised through a Request for Proposal well in advance, and clear rules and a timetable (see Table 3) were published in the terms of references and widely distributed.

Table 3: RenovAR Open Call for Tender Schedule

Item	Activity	05/16	07/16	08/19	19/16	10/16	11/16
1	Non-binding public consultation on the Draft REQUEST FOR PROPOSALS RenovAR (Round 1)	18 May					
2	Publishing by CAMMESA of preliminary versions of other documents related to this Open Call for Tender ('The Documents')	23 May					
3	End of public consultation (non-binding)		1 Jul				
4	Referral by CAMMESA of Report on Public Consultation Process to the Secretariat of Electric Power		11 Jul				
5	Publishing by CAMMESA of the final versions of the 'REQUEST FOR PROPOSALS RenovAr (Round 1)'		25 Jul				
6	Selling by CAMMESA of the 'REQUEST FOR PROPOSALS RenovAr (Round 1)'		25 Jul		2 Sep		
7	Binding consultation period of the 'REQUEST FOR PROPOSALS RenovAr (Round 1)' by the Interested Parties		25 Jul	22 Aug			
8	Answer period, by CAMMESA, of binding consultations on the 'REQUEST FOR PROPOSALS RenovAr (Round 1)'		25 Jul	29 Aug			
9	Signing of the FODER Trust Agreement			8 Aug			
10	Publishing by CAMMESA of the final versions of the Termsheet and World Bank Guarantees			8 Aug			
11	Bids Submission (Envelopes 'A' and 'B')				5 Sep		
12	Opening and assessing of technical bids 'Envelope A'				6 Sep		
13	Publishing by CAMMESSA of the qualification of tenders 'Envelope A'					3 Oct	
14	Opening and assessment of economic bids 'Envelope B'					7 Oct	
15	Award of winning bids					12 Oct	
16	Signing of Renewable Power Purchase Agreements and FODER Trust Adhesion Agreements.						11 Nov
	ource: World Bank. RenovAr Program. Round 1. Request for Proposals. Annex tps://www.argentina.gob.ar/sites/default/files/programa_renovar_ronda_1				lish_version	.pdf	

As a general trend, all RenovAr rounds, with the exception of one round, were oversubscribed, testifying to the high degree of trust generated by the tender design. Both national and international actors competed. Within the solar PV auction considered across the first three auction rounds, the bidders were primarily Argentinian and Latin American project developers. International project developers included Neoen (France), Martifer Renovables (Portugal), Fieldfare/Isolux Ingeniería (Spain and the UK). There was an especially high prevalence of projects that were supported through Chinese capital, or based on Chinese technology. 140

Creating a culture of compliance through complaints and grievance mechanisms

World Bank projects create a culture of compliance by specifying the necessity for borrowers, bidders and operators to establish functioning grievance or complaints mechanisms in their documentation. This applied to both procurement-related complaints and grievance mechanisms, allowing concerns to be raised by affected communities and the workforce on the project.

The World Bank's procurement-related complaints procedures in their current form were first introduced in 2016 at the same time as the RenovAR project, and specify the standard way of doing business with the World Bank. The standard text, "Procurement Regulations for Investment Project Financing Borrowers", now in its fourth edition, outlines the stringent requirements for any participation in World Bank financed projects. ¹⁴¹

Annex III covers the process for procurement-related complaints, including the definition of a "complaint", what a complaint may challenge, and who is eligible to submit a complaint. The timeline and process for the review and resolution of complaints are set out, as well as the roles and responsibilities of the borrower, the bidders and the World Bank.¹⁴²

Annex IV provides for mechanisms for the World Bank to follow in the case of fraud and corruption. Here the World Bank may reject a proposal for award where bidders or other contractors have, "directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question". Legal remedies can include declaring mis-procurement in cases where the borrower has failed to notify the World Bank of corrupt or fraudulent behaviour "in a timely manner". Further the World Bank requires bidders and other project participants to permit it to "inspect all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the Bank". Finally, the World Bank's sanction policies can be brought to bear on parties contravening the anti-corruption regulations. ¹⁴³

¹⁴⁰ Craig Menzies and Mats Marquardt, "Actions for the Support of Renewable Energy in Argentina", AURES. December 2019, p. 20. https://www.researchgate.net/publication/344476534_Auctions_for_the_support_of_renewable_energy_in_Argentina/link/5f7b1dd2a6fdcc00865747ea/download.

¹⁴¹ World Bank (2020). Procurement Regulations for IPF Borrowers. Procurement in Investment Project Financing. 4th ed. Washington. DC. https://thedocs.worldbank.org/en/doc/178331533065871195-0290022020/original/ProcurementRegulations.pdf.

¹⁴² Ibid. pp. 61-66.

¹⁴³ Ibid. pp. 67-69.

These very detailed provisions, now commonplace in World Bank and other MDB contracts, may be considered a "best practice" for other lenders or public-sector investors to emulate.

In the case of the RenovAR project, the public authorities published a set of World Bank performance standards as an integral part of the Request for Proposal and the contracts with winning bidders, with a focus on the grievance mechanisms for affected communities and the workforce on the project.

Classified under the broad rubric of "Performance Standards on Environmental and Social Sustainability", the Performance Standards included the following elements: assessment and management of environmental and social impacts and risks, labour conditions and work, efficient resources use and pollution prevention, health and safety of the community, land acquisition and involuntary re-settling, biodiversity conservation and sustainable management of natural living resources, native people and cultural heritage.

A series of grievance mechanisms were established in relation to the main high-risk areas – environmental and social impacts, labour conditions and work, and land acquisition and involuntary resettling.

For example, in the Request for Proposal, a condition for the winning companies was the establishment of "a grievance mechanism to receive and facilitate resolution of affected communities' concerns and grievances about the client's environmental and social performance. The grievance mechanism should be scaled to the risks and adverse impacts of the project and have affected communities as its primary user. It should seek to resolve concerns promptly, using an understandable and transparent consultative process that is culturally appropriate and readily accessible, and at no cost and without retribution to the party that originated the issue or concern".

In the Request for Proposal, the legal rights of individuals, stakeholders and communities were further supported: the (grievance) "mechanism should not impede access to other judicial or administrative remedies that might be available under the law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements".¹⁴⁴

An Integrity Pact for the Struma Motorway in Bulgaria

Collective action initiatives like Integrity Pacts are aimed at encouraging ethical behaviour in the bidding process and the implementation of specific projects. ¹⁴⁵ The pact essentially is a mechanism that allows collaboration between the public authority and civil society to monitor the implementation of public investment projects to attain the highest standards of integrity during the procurement phase. Through a public agreement, the parties involved commit to refraining

¹⁴⁴ World Bank. RenovAr Program. Round 1. Request for Proposals. Annex 10, Washington. DC., 2016. https://www.argentina.gob.ar/sites/default/files/programa_renovar_ronda_1_- pliego_de_bases_y_condiciones_english_version.pdf.

¹⁴⁵ TI Bulgaria. Transparency and Accountability in Spending of Public Funds. https://integrity.transparency.bg/en/integrity-pact/.

from any corrupt behaviour, enhancing transparency and accountability throughout the process, and integrating an independent mechanism led by civil society to monitor compliance with the applicable regulation and the agreement itself and to inform the public in a timely manner.¹⁴⁶

The construction and maintenance contract for the Struma Motorway in Bulgaria is a good example of how Integrity Pacts can help with gains in value for money. The Road Infrastructure Agency, which managed the complex project, signed an Integrity Pact with Transparency International Bulgaria to monitor the construction of a two-kilometre tunnel between the municipalities of Blagoevgrad and Simitli.

The monitoring covered all stages of the procedure: the preparation of the tender documents, the selection procedure for contractors, the conclusion of contracts with the approved contractors and the execution of the procurement contracts. The monitoring highlighted risks such as a potential increase in financial resources for unforeseen activities to prevent landslides at the construction site and the potential failure to meet the deadline for the implementation of contracts. Steps were taken to mitigate the identified risks accordingly.

The project in Bulgaria is just one of 18 Integrity Pacts implemented across the European Union. 147

A high-level reporting mechanism in Bogota Metro

In 2018, a Memorandum of Understanding was signed between OECD, the Basel Institute on Governance and Bogota City to develop an HLRM involving the procurement of the Bogotá Metro. The Bogota Metro project is co-financed by central and local governments and the Inter-American Development Bank (IDB). It comprises a 25-kilometre elevated metro line which will transport around 650,000 passengers a day. The total cost of this infrastructure project is estimated at US\$4.1 billion.

A panel of experts was appointed and received training on the procurement process conducted by both the metro company and the IDB. A protocol was drawn up which defined the institutions or individuals who could submit reports to the mechanism (civil society, companies, anonymous reports and others) and the types of offences that could be reported through the mechanism based on the list of illicit practices as defined by the IDB and the World Bank. A clause in the tender documents explained the availability of this mechanism.

Following the tender, the expert panel received eight reports, five of which were sent to the IDB for investigation. No accusations of contravention of anti-corruption laws were upheld. The expert panel did make some recommendations about how to tighten the procurement process and corporate governance within the metro company.¹⁴⁸

¹⁴⁶ Rafael Garcia Aceves. Integrity Pacts in the EU: Suitability, Set Up and Implementation. Transparency International, 2022. https://images.transparencycdn.org/images/IP-IN_THE-EU_publication_EN.pdf.

¹⁴⁷ Ibid. 147, p. 10.

¹⁴⁸ Colombia to use HLRM for Bogotá metro procurement. https://collective-action.com/news/colombia-to-use-high-level-reporting-mechanism-for-bogota-metro-procurement-79/.

Learnings and conclusions

The good practices from projects in Egypt (see the grievance mechanism of the Benban Solar Project as described in GPM 1), Argentina, Bulgaria and Colombia show how the tender phase can be managed to minimize corruption risks and to raise confidence that the tender, and the ensuing project, are implemented with integrity. Each of the projects highlights different areas of excellence: an open and transparent bidding process which engages as many bidders as possible and thus opens the project for competition; and complaints procedures and various measures to encourage ethical behaviour by bidders - such as Integrity Pacts and HLRMs - and to place upfront obligations on the part of suppliers and contractors to follow the highest standards of conduct, once the project is under way.

Innovative approaches to promoting compliance management as a condition of bidder participation in tenders encourage bidders to improve their integrity performance and preparation. With the involvement of civil society through Integrity Pacts, government agencies and their contractors can significantly enhance integrity levels in major projects.



PHASE 4: CONTRACT MANAGEMENT AND IMPLEMENTATION (POST-TENDER)

The contract management and implementation stage (often referred to as the post-tender stage) refers to the implementation of the contract to deliver the required construction, goods or services. At this stage, procuring authorities and investors are faced with the risk that fraud schemes, often facilitated by bribes or kickbacks, lead to mis-invoicing, product substitution, false pricing, diversion of funds, inadequate completion, or unsatisfactory performance of contract deliverables. In addition, adjustments after a contract has been awarded may present procuring authorities with various integrity risks, in particular for larger projects such as infrastructure or energy projects, where re-tendering is often not possible, and governments do not necessarily have the upper hand when entering into re-negotiations because they are pressured to deliver on the promised social-economic outcomes.

GPM 6 highlights the importance of setting up effective internal control frameworks, such as an ex-ante mechanism to support integrity within implementing organizations throughout the entire investment and project management cycle. It should be noted that, as internal control frameworks as defined in this publication apply to organizations, project-based examples cannot be provided. Instead, public sector internal control practices are discussed, particularly with a view towards creating the conditions for a favourable investment climate.

GPM 7 looks at the rules and standards for contract adjustments, such as how integrity risks can be mitigated in such cases and how quality outputs and value for money are ensured.

Article 9(2) (b) of the Convention calls for an "effective system of risk management and internal control," which is essential for detecting and controlling fiscal irregularities. Internal controls, as will be explained throughout these GPMs, can be about many things ranging from preventive measures to enforcing budget authorizations, as well as setting policy priorities and instituting laws and regulations to govern public finance management. Internal controls often include the separation of duties, hierarchies of approvals and reviews, accounting controls, documentation requirements and personal certification. Controls can also be remedial measures to identify and fix problems during execution, such as financial reporting, performance monitoring, protection of whistle-blowers, internal audits and IT security. Furthermore, and in the spirit of the Convention's overall objectives, the importance of instituting broader good governance systems is underscored, including the need to disclose relevant information to enable public scrutiny.

GPM 6:

Effective internal control and oversight

Effective internal control mechanisms are in place within the organizations managing the operation and maintenance of awarded contracts (and/or assets under these contracts) to mitigate threats of corruption and fraud.

Control and oversight are instrumental to safeguard integrity in any organization and business, including international investment projects. Specific oversight committees may be established that monitor and review project implementation and, based on their findings, recommend how to best maintain strategic direction and ensure that (delegated) tasks and duties are performed in the best interests of the beneficiaries. In the same vein, but more specific, is the concept and practice of internal control which plays an important role in mitigating the risk that corruption or fraud poses to an organization's ability to achieve its objectives. This often includes ensuring that material assets and human- and financial resources are used responsibly and productively but also encompasses tools to prevent and detect examples of fraud such as mis-invoicing. Thus, establishing an internal control system often goes hand in hand with defining of KPIs and the monitoring thereof.

This GPM differs from the others in that internal control is an organizational management system, rather than a "good practice" associated with an international investment project as such. Instead of a "project", this GPM presents the good practices of a public sector administration - that of North Macedonia. But for the sake of contrast and comparison, a second example is put forward from a private sector investment company in Indonesia implementing internal controls in compliance with the regulatory environment.

Strong internal controls provide organizations, both public and private, with numerous benefits. The Committee of Sponsoring Organizations (COSO) Framework provides the most recognized definition of internal control internationally as "a process, effected by an entity's board of directors, management, and other personnel, designed to provide reasonable assurance of achieving objectives relating to operating, reporting and compliance."¹⁴⁹

Although not a legal instrument in itself, the COSO Framework is used by large public and private organizations to align their internal control frameworks to the COSO principles (see Box 10). In addition, adherence to COSO is de-facto a part of the EU acquis communautaire as its implementation in public internal control (PIC) systems is widespread among Member States.¹⁵⁰ The International Organization of Supreme Audit Institutions (INTOSAI) Guidelines

¹⁴⁹ PwC (2011). Internal Control – Integrated Framework, The Committee of Sponsoring Organisations of the Treadway Commission (COSO). http://felaban.s3-website-us-west-2.amazonaws.com/boletines_clain/archivo20140723210329PM.pdf.

¹⁵⁰ See European Commission, Directorate-General for Budget (2017). Compendium of the public internal control systems in the EU Member States 2014, Publications Office. https://op.europa.eu/en/publication-detail/-/publication/f5d1aca3-f349-11e6-8a35-01aa75ed71a1/language-en, as well as European Union, European Court of Auditors (2016). Special Report: Governance at the European Commission – best practice?, European Union Luxembourg. https://www.eca.europa.eu/Lists/News/NEWS1610_18/SR_GOVERNANCE_EN.pdf.

for Internal Control Standards for the Public Sector are based on the COSO Framework.¹⁵¹ Other known frameworks of internal control are the Basel Framework for Internal Control Systems¹⁵² and ISO 31000.¹⁵³

Box 10

The Committee of Sponsoring Organizations (COSO) of the Treadway Commission framework¹⁵⁴

The 2013 Internal Control-Integrated Framework (ICIF) of the COSO, an initiative to help organizations with assessing and enhancing their internal control function, is largely recognized as the leading global standard. Comprised of 17 principles for effective internal control (grouped under five broader components), the framework puts internal control within a broader context of good governance. The five components are defined as follows:

Control environment

The set of standards and structures that provides the foundation for an organization's internal control, organizational commitment to integrity and ethical values, the 'tone at the top'.

Risk assessment

Performing (fraud) risks analysis and identifying methods to reduce the impact of these risks on organization-wide objectives.

Control activities

Management acting and establishing policies and structures, such as reporting lines, segregation of duties, and assigning control over technology, to mitigate risks to acceptable levels.

Information and communication

Ensuring that management can generate accurate and reliable information, both internally and externally, by drawing on high-quality sources of information.

Monitoring activities

Ongoing or periodic evaluation policies and procedures to verify the quality of internal control performance integrally.

¹⁵¹ INTOSAI (2004). Guidelines for Internal Control Standards for the Public Sector, INTOSAI Vienna. https://www.issai.org/wp-content/uploads/2019/08/intosai_gov_9100_e.pdf.

¹⁵² Basel Committee on Banking Supervision (1998). Framework for Internal Control Systems in Banking Organisations. Basel, 1998. https://www.bis.org/publ/bcbs40.htm.

¹⁵³ International Organization for Standardization. *ISO 31000 – Risk management.* https://www.iso.org/iso-31000-risk-management.html.

¹⁵⁴ COSO (2019). COSO Internal Control-Integrated Framework. An Implementation Guide for the Healthcare Provider Industry.

Internal control in the public sector

Internal control frameworks, together with an (internal) audit function, are essential for public sector agencies to safeguard public resources against waste and abuse and ensure their efficient usage. They are also essential to protect financial resources in investment projects from these risks. Public sector internal controls are therefore critical to give investors and businesses the trust that their resources are being used in an environment where they are safe from abuse by officials.

Moreover, internal control fulfills a critical function in helping governments to protect trust in the public sector by safeguarding value for money when public resources are spent, adequately assessing risk exposure, and making sure that relevant laws and policies are complied with.

Senior officials and managers usually take direct responsibility for internal control activities. Other public officials, however, such as auditors and inspectors, play an equally important role, providing critical input and fact-based knowledge on the activities carried out by public agencies.

As a regulator, the public sector plays an instrumental role by setting the legal rules and requirements for internal controls regulation in the private sector, thereby strengthening fairness and accountability for financial markets and the wider investment community.

After all, internal control and sound financial management are essential for creating favourable investment conditions. Investment decision-making often draws heavily on financial data, and strong internal control help stakeholders to produce reliable reports. Safeguarding integrity in such reporting is therefore critical, as dishonesty, fraud, and corruption can severely compromise the validity and credibility of such data and, as a result, deter investment. In addition to that, and aside from potential fines or other financial liabilities, non-compliance with internal control regulations may cause serious reputational damage, diminish firm value, credit ratings and goodwill, and lead to lost business and investment opportunities, for example, when organizations are being debarred or suspended, or faced with limitations in accessing (new) capital. Reputational risk is not limited to the private sector, as governments around the world are often faced with low levels of public trust in government and politicians. This can negatively affect the business climate when investors and businesses increasingly perceive governments as divisive or corrupt and thereby seek additional safeguards before doing business or consider the risks of doing business in such environments no longer viable.

The scope and definition of internal control are not always clear and may often get confused or conflated with the internal audit function or with financial control. Therefore, it is important to underline that internal control is of a much wider scope and typically refers to a comprehensive system that goes beyond segregation of duties (often seen as a key internal control mechanism), and addresses additional issues, such as the tone at the top, the availability of ICT control and security, sound information management and data retention, among others.

¹⁵⁵ See, for example, OECD. Trust in Government. https://www.oecd.org/governance/trust-in-government/; and, Edelman. Societal leadership is now a core function of business. 2022 Edelman Trust Barometer. https://www.oecd.org/governance/trust-in-government/.

Internal control procedures are, in fact, common in many different functions of public administration, including in procurement (particularly in bidding and evaluation procedures), and in public finance (reconciliation, approval hierarchy). Article 9 of the Convention stipulates that, in the context of public procurement, State parties shall promote transparency and accountability and that such measures encompass "effective and efficient systems of risk management and internal control". The importance of internal control principles vis-à-vis the management of integrity risks by governments is also covered in the 2021 Recommendation for Combating Bribery of Foreign Public Officials in International Business Transactions, there member countries are encouraged to adopt measures set forth in the OECD's Good Practice Guidance on Internal Controls, Ethics and Compliance.

Internal control in the private sector

While the focus of this publication is on international investment projects of the public sector, most of the implementers of these same projects are private sector companies or hybrid companies such as state-owned enterprises (SOEs) or public utility companies or agencies that are partially or entirely owned by the state. When implementing international investment projects, public sector entities often rely on the services of private sector companies, for example as the actual investment vehicle or through rendering various administrative services. The robustness of internal control in private firms, in addition to the public sector, therefore, is critical for the integrity of international investment projects.

For the private sector, the primary driver for internal control is regulatory compliance. Many elements of internal control are often mandated by law, for example, EU regulations on public finance management or the U.S. Securities and Exchange Commission's (SEC's) listing requirements that demand aspects of internal control are put in place. Internal control frameworks are therefore often considered part of regulatory compliance. In the United States, for example, public companies must use a "suitable, recognized control framework" to evaluate effectiveness of their Internal Control over Financial Reporting (ICFR), and the COSO Framework is recognized as "suitable". 159

¹⁵⁶ OECD, Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions, OECD Legal Instruments, OECD/LEGAL/0378, Adopted on: 26 November 2009, Amended on: 26 November 2021. https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0378.

¹⁵⁷ OECD (2010). Good Practice Guidance on Internal Controls, Ethics, and Compliance. https://www.oecd.org/daf/anti-bribery/44884389.pdf.

¹⁵⁸ U.S Securities and Exchange Commission. Management's Report on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports. https://www.sec.gov/oca/controlfaqhtm.

¹⁵⁹ U.S. Securities and Exchange Commission (2005). Management's Report on Internal Control over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports of Non-Accelerated Filers and Foreign Private Issuers; Final Rule; Extension of compliance dates; Release No. 33-8545; 34-51293; File Nos. S7-40-02; S7-06-03; Securities And Exchange Commission, 17 CFR Parts 210, 228, 229, 240 and 249, 2 March 2005. https://www.sec.gov/rules/final/33-8545.htm.

Integrity challenges

When internal control systems are absent or ineffective, the opportunities for fraud and corruption multiply. From a contract management point of view, preventing and detecting potentially fraudulent activities is essential to assure contract performance and limit negative effects. Some of the typical risks include manipulating invoices (overpricing, falsifying the quantity of delivered goods or services, inaccurate time records, sending duplicate invoices, etc.) or concealing a diversion of funds. By assuring that expenditures are properly supported by relevant documentation and instituting an independent review of invoices and supporting documents by someone outside of vendor management (effectively a segregation of duties), opportunities for such fraud schemes can be made scarcer.

For example, inadequate internal control and poor external oversight allowed the state-owned oil company Petrobras in Brazil to set up a massive bribery and bid-rigging scheme that went unnoticed for about eight years and led to a massive loss of public resources. Since internal control measures such as segregation of duties were ineffective, Petrobras' senior executives and (sub) contractors could successfully collude to inflate the cost of infrastructure projects. Kickbacks received by Petrobras executives were used to bribe politicians and illegally finance political parties. In exchange, politicians supported the involved Petrobras executives in getting more senior positions within the firm. Petrobras recorded the associated payments as investment towards the acquisition and improvement of assets, resulting in an estimated US\$2.5 billion overvaluation of assets. In a non-prosecution agreement with the SEC, Petrobras eventually agreed to pay a total of US\$933 million in disgorgement, prejudgment interest and an US\$853 million penalty.

Aside from bid-rigging and bribery during the procurement stage, fraud and corruption in the post-tender phase may also occur during contract implementation by, for example, manipulating or substituting products or services with lower-quality ones. When organizations fail to set up an effective internal control programme, including assurances that supporting documentation for expenditures and invoices are accurate and verified independently, false pricing or overcharging can easily go unnoticed.

In 2008, Australia's Independent Commission Against Corruption (ICAC) opened an investigation into allegations of bribery and fraud at the railway operator RailCorp (a New South Wales government agency). Inter alia, it found that improper allocation of contracts, unauthorized secondary employment, failure to declare conflicts of interest, and falsification of time sheets, were endemic. Employees awarded contracts worth almost US\$19 million to companies owned by themselves, their friends or family members, in return for corrupt payments totaling over US\$2.5 million. Moreover, employees were found to have frequently falsified timesheets in what was colloquially known as "job and knock", when they would be claiming more hours than they worked and were paid for, resulting in less work being delivered than that for which labour costs were charged. Also, in this case, internal control measures were inadequate and

¹⁶⁰ U.S. Securities and Exchange Commission, Petrobras Reaches Settlement with SEC for Misleading Investors, Press Release, 2018. https://www.sec.gov/news/press-release/2018-215.

¹⁶¹ Ibid.

actively circumvented, as several RailCorp managers perpetuated a culture of non-reporting that enabled staff to hide manipulated transactions. In addition, adequate segregation of duties was not enforced as RailCorp's procurement manager was able to inflate the prices for certain orders, because this person had end-to-end control of the purchasing system. In fact, RailCorp only learned that it had paid excessively high amounts after the ICAC investigation. ¹⁶²

Good practice checklist

It should be noted that the good practice checklist has been drafted with both the public and private sectors in mind. For the sake of succinctness, these questions are to be understood as guidelines based on the COSO Framework; the specific checklist questions and level of details will depend on the institutional framework and type of organization and may vary accordingly. For more information on applying the COSO Framework for the public sector, see the INTOSAI Guidelines for Internal Control Standards for the Public Sector.¹⁶³

- ▶ Did senior management actively communicate and set clear and sound expectations on ethical conduct and integrity?
- Did clear policies on delegation of authority exist in the public agencies/ authorities in charge of international investment projects (i.e. financial thresholds for signature), and are staff monitored and held accountable for the way in which they exercise their delegated authority and the results that they achieve?
- Were processes in place to identify external risks (regulatory changes, economic changes, societal changes, etc.) and their implications for operation and impact on the overall project/organizational objectives?
- Did processes exist to identify internal risks (in areas such as HR, IT etc.) and evaluate their implications for operation and impact on the overall project/organizational objectives?
- Were responsibilities for authorizing payments and reviewing/archiving them separated? Are all payments subject to appropriate documentation?
- Did risk management periodically review and update its assessments and does the organization adjust its policies accordingly?

¹⁶² Independent Commission Against Corruption (2008). Investigation into bribery and fraud at RailCorp. Eighth Report – Corruption Prevention. ICAC Report, Commission Against Corruption, Sydney, 15 Dec 2008. https://www.parliament.nsw.gov.au/tp/files/6323/Investigation%20into%20bribery%20and%20fraud%20at%20RailCorp%20-%20Eighth%20report%20-%20Operation%20Monto.pdf.

¹⁶³ INTOSAI (2004). Guidelines for Internal Control Standards for the Public Sector, INTOSAI Vienna. https://www.issai.org/wp-content/uploads/2019/08/intosai_gov_9100_e.pdf.

Good practice of public finance management reform: the implementation of North Macedonia's Public Internal Financial Control System (PIFC).

For over 20 years, the Republic of North Macedonia has taken important and significant steps towards strengthening its PFM system, including more robust financial and internal control. In particular, owing to its status as an EU candidate (since 2005), the country has implemented a series of reforms in line with its EU accession priorities. It has re-engineered its internal control environment with upgrades to the public sector control system in line with international standards and EU best practices.

In 2009, it adopted the Law on the Public Internal Financial Control System (PIFC), a concept developed by the EU to support candidate countries with reforming internal control frameworks. These reforms are an integral part of the *acquis communautaire* that applicant countries must adopt to meet EU accession requirements (in this case, Chapter 32).¹⁶⁴

The PIFC framework draws on several international standards and good practices, including the COSO Framework. The PIFC law encompasses all three pillars of the EU's PIFC framework, for namely, assuring managerial accountability (Financial Management and Control Systems or FMC), retaining a functionally independent internal audit and setting up a Central Harmonization Unit to develop methodologies, and disseminating standards relating to these two pillars to steer relevant reforms.

In 2015, North Macedonia amended the PIFC law. In 2019, in collaboration with external parties (EU, World Bank, OECD/SIGMA),¹⁶⁷ it took further measures and introduced a special action plan to improve the country's PIC system.¹⁶⁸ This resulted in more proactive ways of managing risk, improving the relationship between strategic planning and planning of resources, as well as decentralizing managerial accountability and introducing elaborate ex-ante and expost controls. A new law from 2020 is still under implementation and would further expand coverage (including to public enterprises) and clarify reporting on the effectiveness of the control and audit framework.

¹⁶⁴ See Chapters of the acquis at: https://neighbourhood-enlargement.ec.europa.eu/enlargement-policy/conditions-membership/chapters-acquis_en.

¹⁶⁵ European Commission, "Information on the Public Internal Control (PIC) system, aimed at improving public sector performance in the EU". https://ec.europa.eu/info/strategy/eu-budget/protection-eu-budget/public-internal-control_en; PIFC Expert Group (2004). Report to Supreme Audit Institutions of Central and Eastern European Countries. Internal Control Systems in Candidate Countries Vol 1, Cyprus, Malta, Turkey and European Court of Auditors, March 2004, updated November 2004. https://www.eca.europa.eu/Lists/ECADocuments/COOP_PUBLI006/COOP_PUBLI006_EN.PDF.

¹⁶⁶ Ibid.

¹⁶⁷ North Macedonia, Ministry of Finance (2022). Monitoring report on implementation of the 2021 Action Plan for Public Financial Management Reform Programme. https://finance.gov.mk/wp-content/uploads/2022/06/2021-PFM_EN-Monitoring-Report-North-Macedonia.pdf.

¹⁶⁸ Ministry of Finance (North Macedonia), Ministry of Finance (Croatia), Central Finance and Contracting Agency, and EU for You (2019). Public Internal Financial Control. https://finance.gov.mk/wp-content/uploads/2019/03/EN-bros%CC%8Cura_refined.RIP-proof1.pdf.

As a result, the internal control system has progressed steadily, and external evaluations have registered numerous improvements over the past few years. A recent IMF assessment confirmed that coverage of the law is comprehensive and includes all central revenues, expenditures, assets and liabilities and that the implementation of public financial control is organized chiefly by the five interrelated components based on the COSO Framework. ¹⁶⁹ Provisions on the independence of internal auditors are aligned with international standards, ¹⁷⁰ and the PIFC law has helped mainstream clear responsibilities for (senior) management throughout public sector agencies. Internal control mechanisms are well-anchored and decentralized in operational procedures, with heads of units being required to implement internal control systems across their organizations (including monitoring and evaluation), and units dealing with financial affairs being prescribed in detail the different responsibilities they have during budget cycles.

These include the terms for segregation of duties, where clear responsibilities are defined and incompatible responsibilities that are to be segregated are delineated (namely, authorization, recording, custody of assets and reconciliation).¹⁷¹ Segregation of duties is also hard coded into the Treasury information System (TriS), a central system for government financial data that is used for managing the general ledger. That system is password protected and maintains activity logs (audit trails), providing essential internal control over the use of this IT tool. As per the COSO principles, internal audits are considered vital for the monitoring component of the PIFC and are in place for practically all central government revenues and expenditures.¹⁷² External scrutiny over the functioning of internal control arrangements is also assured.¹⁷³ The central harmonization department is responsible for conducting quality reviews of internal control measures in different public organizations, and the Ministry of Finance's inspection department provides ex-post verification.

In addition to and as a result of these on-going reforms and based on an earlier Public Investment Management Assessment (PIMA) by the IMF,¹⁷⁴ the government adopted the Action Plan for Public Investment Management (PIM) 2021-2024. Two working groups are currently undertaking preparatory activities for the establishment of a dedicated PIM unit within the Ministry of Finance. These are the Working Group for implementing the Action Plan for PIM and the Working Group for undertaking preparatory activities for establishing an organizational unit to perform functions related to PIM within the Ministry of Finance.¹⁷⁵ Among others, they aim to overcome fragmentation and to promote the usage of a unified approach for the appraisal and selection of proposals for public investment projects. In addition, their work seeks to strengthen

¹⁶⁹ World Bank (2022). North Macedonia: Technical Assistance Report – Public Expenditure and Financial Accountability Performance Assessment. IMF Staff Country Reports 222/219. https://www.imf.org/en/Publications/CR/Issues/2022/07/11/ North-Macedonia-Technical-Assistance-Report-Public-Expenditure-and-Financial-Accountability-520575.

¹⁷⁰ Based on the International Professional Practices Framework (IPPF) issued by the Institute of Internal Auditors (IIA). See: https://www.theiia.org/en/standards/international-professional-practices-framework/

¹⁷¹ Some public organizations have yet to implement and operationalize these requirements.

¹⁷² Although audits have been generally sound, management responses to audit findings have shown some room for improvement.

¹⁷³ Ibid.

¹⁷⁴ IMF-Japan Capacity Development Partnership. North Macedonia: country profile. https://infrastructuregovern.imf.org/content/PIMA/Home/Region-and-Country-Information/Countries/North-Macedonia.html.

¹⁷⁵ North Macedonia, Ministry of Finance (2022). Monitoring Report on Implementation of the 2021 Action Plan for Public Financial Management Reform Programme for the period January – December 2021. https://finance.gov.mk/wp-content/uploads/2022/06/2021-PFM_EN-Monitoring-Report-North-Macedonia.pdf.

the organizational capacities of involved parties to enhance transparency in the implementation of projects. The planned future inclusion of PIM in the internal control framework would also positively influence strategic planning and effective allocation of public resources for investment and help to assure that quality capital projects are selected for funding while reducing large unplanned expenditures as a result of materialized fiscal risks.

Good practice example from the private sector

Saratoga Investment Corporation, Indonesia

Founded in 1998, Saratoga is a leading Indonesia-based investment company that manages assets with a total value of over US\$3.8 billion.¹⁷⁶ It takes an active role in managing companies that it has invested in. Its focus is on early- and growth-stage companies while also investing in blue-chip companies.¹⁷⁷ Investments are typically targeted at sectors that support local economic development, including natural resources (50 per cent), infrastructure (39 per cent), and consumer products and services (11 per cent).

In the run-up to its initial public offering (IPO), the firm wanted to ensure that it was compliant with local listing requirements. In the process, Saratoga realized that changes were needed to meet Indonesian capital market regulations, as well as to enhance its overall performance and to be better prepared for future growth opportunities. Notably, internal control functions had to be made more efficient, which implied revising the structures to better define the roles and responsibilities of its supervisory board (the Board of Commissioners – BoC) and its executive management (Board of Directors – BoD).

Strengthening the control environment to support sustainable growth

In 2013, following its listing on the Indonesian Stock Exchange and with the help of the IFC,¹⁷⁸ Saratoga's corporate governance framework was assessed to map possible gaps between their existing practices and the requirements for listed companies in Indonesia. As a result of this, Saratoga amended several corporate charters, including those of the BoC, BoD and the Audit Committee. The BoD charter, for example, was altered to clearly define the number of members, its composition and its independent status pursuant to Saratoga's Articles of Association and the regulations of the capital market.

¹⁷⁶ Saratoga Investama Sedaya, "Supported by National Economic Recovery, Saratoga's NAV Grows Positively in 2021", Saratoga News Room, 14 March 2022. https://saratoga-investama.com/supported-by-national-economic-recovery-saratogas-nav-grows-positively-in-2021/.

^{177 &#}x27;A blue chip is a nationally recognized, well-established, and financially sound company. Blue chips generally sell high-quality, widely accepted products and services. Blue-chip companies are known to weather downturns and operate profitably in the face of adverse economic conditions, which helps to contribute to their long record of stable and reliable growth.' See James Chen, "What is a Blue Chip?", Investopedia, 27 December 2020. https://www.investopedia.com/terms/b/bluechip.asp.

¹⁷⁸ International Finance Corporation (2021). Internal Control Handbook. World Bank Group. Washington D.C. https://www.ifc.org/wps/wcm/connect/0ab4e93d-fae8-439f-b4f7-ed5abaeb680e/IC-Handbook-2021.pdf?MOD=AJPERES&CVID=nX. MmBn.

Saratoga established a new and separate Risk Management Unit to support the BoD and heads of its business units in identifying, managing, and monitoring risks. In addition, a Code of Conduct, which included related party transactions and whistle-blower policies in line with international standards and regional best practices, was adopted in 2014.

Implementation of sound contract management guidelines including reporting mechanisms

Forming the core of its investment undertaking, oversight and management committees set up to ensure that critical decisions or actions are taken responsibly with due attention to risk mitigation. A key element here is the role played by different committees under the Board of Commissioners; these are the Audit Committee, the Risk Oversight Committee and the Remuneration and Nomination Committee. The other important element of Saratoga's internal control is the establishment of a whistle-blowing system which provides additional checks and balances against potential fraud and impropriety.¹⁷⁹

Results

About four years later, Saratoga reported that its initial internal control reforms had significantly impacted its approach to risk management. Organization-wide awareness on risk management and control was now much higher, and the Risk Management Unit actively championed staff who led work on key-risk assessments. The improved corporate governance policies also strengthened the firm's reputation and access to capital, particularly as a result of improved credit scores and more diverse funding opportunities, thereby also providing concrete savings to the annual total cost of capital. Its reforms also spilled over to partners and investee companies, thereby making cross-border contributions to the local business environment and acting as a catalyst for corporate governance.

Learnings and conclusions

Internal control systems with sound risk management approaches, and an independent internal audit function, are essential features of accountable organizations, including public authorities and private sector firms. The function of internal control systems is increasingly recognized as an essential tool to prevent, detect, and respond to instances of fraud and corruption.¹⁸¹

¹⁷⁹ Saratoga (2021). Strategically Positioned in Capturing Opportunities. in: The New World. Annual Report, PT Saratoga Investama Sedaya Tbk. https://saratoga-investama.com/wp-content/uploads/2022/03/SRTG-Annual-Report-2021.pdf.

¹⁸⁰ International Finance Corporation (2021). Internal Control Handbook. World Bank Group. Washington D.C. https://www.ifc.org/wps/wcm/connect/0ab4e93d-fae8-439f-b4f7-ed5abaeb680e/IC-Handbook-2021.pdf?MOD=AJPERES&CVID=nX. MmBn.

¹⁸¹ OECD (2017). Internal Control and Risk Management for Public Integrity in the Middle East and North Africa. OECD Public Governance Reviews. https://www.oecd.org/gov/ethics/corruption-risks-internal-control-mena.pdf.

To effectively limit the risks of corruption and fraud, including the corruption offences covered in the Convention, such as abuse of function and embezzlement, contracting authorities should endeavor to establish strong internal control frameworks.

In addition, and specifically for infrastructure asset management and maintenance, clear internal control guidelines should be developed. Publicly or otherwise externally verified budget estimates can ensure that such numbers are accurate. This may reduce the chance that, due to collusion or bribery, falsified budget estimates lead to inflated cost allocations.

Moreover, scrutiny should be ensured whenever assets are written off, declared obsolete or otherwise undervalued to extend favours to a third party and/or seek personal gain.

Finally, ensuring that maintenance is conducted by properly integrating a quality management system can be critical in preventing the launch of alternative, often sizeable, investment projects where the scope of rent-seeking can be much higher.

GPM 7:

Clear and stringent rules and standards for project adjustment

Establish rules and procedures for project adjustments and post-tender renegotiations (especially in the case of PPPs), including for maintenance of contracts.

Adjustments and renegotiations are quite frequent in complex international investment projects. A study by the Global Infrastructure Hub (GIH) found that, on average, approximately one in every three projects involves a renegotiation, with projects in Latin America exhibiting a higher number (about 58 per cent). They are not necessarily a sign of corruption - overruns, incompetence and miscalculations can also be responsible. Contract renegotiations may be necessitated by more exogenous changes in political, social, or economic circumstances in the operating environment.

Other events that can trigger contract renegotiations include the complexity of the contractual relationship, the so-called "winner's curse", as well as rent-seeking behaviour. Sometimes, adjustments and renegotiations should be seen as a red flag, warranting further investigation. PPPs are particularly prone to adjustments and renegotiations.

¹⁸² Global Infrastructure Hub, Turner & Townsend, "Renegotiation" in: *PPP Contract Management Tool*, Chapter 4. https://content.gihub.org/live/media/1464/updated-chapter-4_art2_web.pdf.

¹⁸³ Jonathan Gifford, Lisardo Bolaños, Nobuhiko Daito, "Renegotiation of Transportation Public-Private Partnerships: The US Experience", OECD/International Transport Forum, Discussion Paper No 2014-16 (2014). https://www.itf-oecd.org/sites/default/files/docs/dp201416.pdf.

PPPs, conceived to provide better cost efficiency and overall quality, are often the key modality for private sector financing and come in different shapes and forms. ¹⁸⁴ Especially in countries with limited fiscal resources, PPPs can bring a positive contribution by easing budgetary constraints and channeling private sector knowledge and resources into the development of critical infrastructure. PPPs can enhance project selection, through which the interests of the private sector can be aligned with those of the public sector throughout the life cycle of the project.

However, PPP approaches are not without controversy and have attracted criticism as costly and open to unfair business practices.¹⁸⁵

Contract negotiations for PPPs can be hampered, severely prolonged, or even be unfruitful when a project is poorly designed as well as when involved parties are unqualified to properly assess the substance matter. Moreover, in such cases, the likelihood that awarded contracts need to be renegotiated soon after closing the agreement increases due to the inadequately identified project deliverables.

Contract renegotiations do occur frequently. While recognizing the complexity of larger contracts and inevitability of adapting contractual arrangements at some point (especially for PPPs), frequent contract renegotiations should be avoided. External observers often consider renegotiations a major flaw of public contracts and have stated that the frequent occurrence of contract renegotiations can raise "serious questions about the viability of the concession model". Contract renegotiations may also undermine public trust and distort future competitive bidding by giving the impression that a contract has not been properly designed or negotiated or that adjustments are accommodated with little transparency and scrutiny.

Risks may occur in PPPs when they function as ad-hoc, off-budget arrangements. Politically connected vested interests can successfully lobby for PPP deals that a more objective assessment under a unified framework would have rejected. A parallel selection process exclusively for

¹⁸⁴ There is no single definition of a PPP. In its reference guide, the World Bank uses a broad view and defines a PPP as 'a long-term contract between a private party and a government entity, for providing a public asset or service, in which the private party bears significant risk and management responsibility, and remuneration is linked to performance.'

See International Bank for Reconstruction and Development / The World Bank Group, Asian Development Bank, and Inter-American Development Bank (2014). Public-Private Partnerships, Reference Guide, Version 2.0, World Bank Washington, D.C., Asian Development Bank Mandaluyong City, Inter-American Development Bank, Washington, D.C. https://documents1.worldbank.org/curated/en/600511468336720455/pdf/903840PPP0Refe0Box385311B000PUBLIC0.pdf.

¹⁸⁵ Anand Rajaram, Tuan Minh Le, Kai Kaiser, Jay-Hyung Kim, and Jonas Frank, eds (2014). *The Power of Public Investment Management: Transforming Resources into Assets for Growth*. Directions in Development. Washington, DC. World Bank. https://openknowledge.worldbank.org/bitstream/handle/10986/20393/911580PUB0Box301610EPI02103160Sep30. pdf?sequence=1&isAllowed=y.

¹⁸⁶ A case in point is the Hwado–Yangpyeong Expressway project where, after eight months of negotiations, no final agreement was reached after serious concerns over the preferred bidder's financial situation as expressed. See also Jungwook Kim (2018). Rationale and Institution for Public–Private Partnerships. ADB Economics Working Paper Series No. 557, Asian Development Bank. Mandaluyong City. https://www.adb.org/sites/default/files/publication/450876/ewp-557-rationale-institution-ppps.pdf.

¹⁸⁷ J. Luis Guasch, Jean-Jacques Laffont, Stephanie Straub, "Renegotiation of concession contracts in Latin America: Evidence from the water and transport sector", International Journal of Industrial Organization, vol. 26 (2008), pp. 421–442, https://www.sciencedirect.com/science/article/abs/pii/S0167718707000689.

PPPs can create additional opportunities for corruption.¹⁸⁸ Without an integrated, PFM-based approach to public investment, governments can easily be exposed to corrupt practices.

Another risk in PPPs, which can be managed, but needs to be treated with caution, is unsolicited proposals. Such proposals, which do not originate as part of a government planning process, may divert government attention from a planned holistic approach to.¹⁸⁹

It is therefore critical to ensure that project design is sound and provisions for contract renegotiations are regulated or even included in the awarded contract. Safeguarding independent oversight and control over the appropriateness of envisioned changes to a contract is also important so that integrity and value for money can be sustained.

A study on PPP renegotiations suggests that it is vital that additional unexpected expenditures due to renegotiations should be transparently accounted for, disclosed, and incorporated in the budget and medium-term fiscal framework. And when a renegotiation changes the payment schedule or guarantees for a PPP, this should be reflected in current and future budgets. It is important to proactively have a plan for potential renegotiations in PPP contracts before they happen.¹⁹⁰

The role of the government is to ensure that the proposed project is structured to meet societal needs and can be tendered to ensure fair terms, conditions, and pricing. This may not be the primary motivation of a private entity whose priority is to further its own interests, whether or not they align with those of the government or society. Governments therefore need to "invest in investment", that is, invest public resources in institutional capacity for quality project preparation. This will lessen the probability of project losses or failures due to renegotiations. Governments lacking experience or capacity are advised to get high-quality legal and financial advice for managing renegotiations. ¹⁹²

For practitioners requiring further guidance on how to handle PPPs, including renegotiations, the UNCITRAL Legislative Guide on Public-Private Partnerships and the UNCITRAL Model Legislative Provisions on Public-Private Partnerships may be useful. They cover the main matters relevant to the establishment of a favourable legal framework for PPPs, including project planning and preparation, administrative coordination, the scope of authority to enter into PPPs, the content of the PPP contract, the settlement of disputes and other matters.¹⁹³

¹⁸⁸ Anand Rajaram, Tuan Minh Le, Kai Kaiser, Jay-Hyung Kim, and Jonas Frank, eds (2014). *The Power of Public Investment Management: Transforming Resources into Assets for Growth*. Directions in Development. Washington, DC. World Bank. https://openknowledge.worldbank.org/bitstream/handle/10986/20393/911580PUB0Box301610EPI02103160Sep30. pdf?sequence=1&isAllowed=y.

¹⁸⁹ For further guidance on risk management in PPPs, see IMF, "The PPP Fiscal Risk Assessment Model (PFRAM)", https://infrastructuregovern.imf.org/content/PIMA/Home/PPPs-and-PFRAM.html.

¹⁹⁰ David Bloomgarden, Conclusions from PPP renegotiations. ADB, A Governance Approach to Managing PPP Renegotiations, Manila, 2022.

¹⁹¹ World Bank (2017). Public-Private Partnerships: Reference Guide Version 3. World Bank, Washington, DC., https://openknowledge.worldbank.org/handle/10986/29052; World Bank, "Improving Water Supply and Sanitation Services in La Guajira, Colombia", World Bank, Results Briefs, April 23, 2019. https://www.worldbank.org/en/results/2019/04/23/improving-water-supply-and-sanitation-services-in-la-guajira-colombia.

¹⁹² David Bloomgarden, Conclusions from PPP renegotiations. ADB, A Governance Approach to Managing PPP Renegotiations, Manila, 2022.

¹⁹³ See UNCITRAL guidance from on procurement and PPPs at https://uncitral.un.org/en/texts/procurement.

Integrity challenges

Renegotiating the terms of contracts, including price or overall deliverables, in large investment projects can lead to considerable risks for corruption. Depending on the stage of the contract, such risks manifest differently. In case a contract is renegotiated almost immediately after it has been awarded, this can be a red flag and indicative of corrupt project design. Past examples of such flawed public contracting in a Caribbean State have shown the devastating impact this can have on the total costs for dams, aqueducts, and other public works. Local corrupt officials, colluding with the contractor (Odebrecht), approved the adjustment and renegotiation of price changes almost immediately after contracts were awarded, leading to the loss of tens of millions of dollars of public resources.¹⁹⁴

Later, integrity risks continue to exist during the contract implementation stage. Opportunistic suppliers may seek to take advantage of the renegotiation to secure better, more advantageous conditions for the awarded contract, especially when projects take place in contexts where there is little overall transparency or where supportive policies are lacking.¹⁹⁵

These dynamics can have severe negative consequences for international investment projects. Contracting authorities, for example, may be confronted with legal and operational challenges if integrity risks are not managed well, as well as the need to consider the value for money proposition when there is supplier dependency or monopoly, especially in the case of large investments via PPP contracts. Due to the long-term nature of such contracts, contracting authorities can easily find themselves in situations where the supplier retains a degree of monopoly on goods and services that may be needed later. Replacing a vendor in larger, complicated construction projects is often not considered feasible due to the additional costs for retendering or because delays would put the wider economic benefit of the investment at risk. The challenge of so-called vendor lock-in is also prevalent in the procurement of other goods or services where success needs to be future-proof and depends on the interoperability of the procured goods and services. This is particularly the case when procuring computer technology and software.¹⁹⁶

At the same time, investors are also at risk when governments want to open existing contractual agreements and review their terms and conditions. The reasons behind government-initiated renegotiations can often be justified. For example, when the market value of the assets managed under the PPP has significantly increased, the (new) government may want a fairer piece of the overall revenue. Yet, frequent changes to tax and royalty structures alter the assessments made by international investors on political risk and return on equity and may lower their appetite to dedicate new capital resources.

¹⁹⁴ See Ezra Fieser, "A Graft Machine's Collapse Sows Chaos in the Caribbean", June 12, 2017, Bloomberg. https://www.bloomberg.com/news/features/2017-06-12/odebrecht-corruption-machine-s-collapse-sows-chaos-in-the-dominican-republic.

¹⁹⁵ Rajni Bajpai, Bernard Myers, "Managing Public-Private Partnership (PPP) Renegotiation", in: Enhancing Government Effectiveness and Transparency: The Fight Against Corruption, pp. 76–83, Chapter 2, Case Study 5, Washington DC., World Bank, 2020. https://thedocs.worldbank.org/en/doc/1031416116784924560090022021/original/ManagingPPPRenegotiations.pdf.

¹⁹⁶ See also European Commission, ICT Standards for Procurement. European Union. https://joinup.ec.europa.eu/collection/ict-standards-procurement/interoperability-and-vendor-lock.

Furthermore, certain sectors, such as the commodities or infrastructure industries, ¹⁹⁷ appear to be more vulnerable to the pitfalls of contract adjustments than others. ¹⁹⁸

Good practice checklist

- Were contract renegotiations and/or adjustments regulated? When the contract value is above a certain and clearly described threshold, is an independent review from an external committee required?
- Were changes to contract deliverables verified by independent experts/ external audit structures?
- Where possible, have public consultations been required and conducted before the approval of project adjustments by the external committee?

Project good practices

The Queen Alia International Airport (QAIA), which was built in 1983 and handled virtually all of Jordan's air traffic, was sustaining growth figures of 7 per cent per year since 2000. Expansion was therefore much needed and coupled with a broader effort by the Jordanian Government to boost tourism and make the country a regional hub, a project for renovating this national airport was initiated. With the support of the IFC as a transaction advisor, the national government started looking for partners from the private sector to finance and expand the airport, including by constructing a state-of-the-art new terminal building.

With an overall budget of US\$700 million, a competitive tender process was put in place and a total of five consortia submitted their detailed bids. Awarded in 2007 for a period of 25 years, the rehabilitation, expansion, and operation agreement, the actual concession, binds the selected contractor to refurbish, expand, operate and maintain the Queen Alia International Airport until 2032.

¹⁹⁷ Marie Chene, "Corruption and the renegotiation of mining contracts," Bergen: U4 Anti-Corruption Resource Centre, Chr. Michelsen Institute (U4 Helpdesk Answer), 2007.

https://www.u4.no/publications/corruption-and-the-renegotiation-of-mining-contracts.

¹⁹⁸ J. Luis Guasch (2004). Granting and Renegotiating Infrastructure Concessions: Doing it Right. World Bank Institute Development Studies;. Washington, DC: World Bank. https://openknowledge.worldbank.org/handle/10986/15024.

Differentiating and regulating contract renegotiations and adjustments

The concession used a so-called consent and assumption agreement,¹⁹⁹ which clarified what adjustments were understood to be in line with the contract provisions and did not necessitate a renegotiation. This included certain adjustments caused by currency exchange risks, inflation, and force majeure, etc. Establishing clear contractual terms and obligations between the parties, including the assumption of maintenance costs, is a good practice to consider in international investment projects as this offers a desirable degree of built-in contractual flexibility that may reduce – as far as possible – the need for contract renegotiations.

Contract renegotiations were subject to external expertise and oversight and required various approvals

The original project concept by the Government proved to be challenging. Among others, the initial plan involved an iconic design and a two-staged construction process that needed to be changed to secure the airport's long-term economic viability and ability to expand in the future. The procuring authority requested various changes that, combined with faster increases in passenger traffic than was forecasted and constraints of working on an operational airport, required significant contractual adjustments to accommodate the needed changes. This led to a delay of over one year and cost overruns of around US\$260 million.²⁰⁰

Three years later, the partners initiated a renegotiation process wherein it was decided to accelerate the second stage of the development process (fast-tracking construction efforts, among others). More specifically, these changes required a close review by the project's stakeholders – including the public – and implied significant cost overruns. As a result, a new cost and financing plan was developed, and relevant passenger traffic and financial projections were updated.²⁰¹

The finance restructuring also meant that, in this case, better finance conditions had become available and commercial banks (which previously considered the project too risky and didn't want to provide finance) were now also available to provide financing for the expansion.²⁰² As part of the renegotiation settlement, it was agreed that the procuring authority would contribute an additional US\$50 million and the contractors would take US\$150 million in additional debt (as a loan to refinance the project).²⁰³ The government contribution required the approval of the Council of Ministers, the main administrative body in the Government of Jordan.

¹⁹⁹ See Rehabilitation, Expansion and Operation Agreement relating to Queen Alia International Airport between the Hashemite Kingdom of Jordan acting by and through its Executive Privatization Commission and Airport International Group P.S.C., 19 May 2007. https://sentencias.mop.gob.cl/reclamacion2-2017/Escrito%20y%20documentos%20SC%20 02.01.2017/13.%20Contratos%20de%20concesi%C3%B3n/3.%20Contrato%20de%20Concesi%C3%B3n%20Jordan.pdf.

²⁰⁰ Global Infrastructure Hub, "PPP Contract Management, Case Studies, Queen Alia International Airport Expansion", Case Studies. https://managingppp.gihub.org/case-studies/queen-alia-international-airport-expansion/.

²⁰¹ EMCompass, "Queen Alia International Airport – The Role of IFC in Facilitating Private Investment in a Large Airport Project", Note 35, April 2017. https://www.ifc.org/wps/wcm/connect/b03a0a0f-ab81-4f12-9dcd-bc553231f989/EmCompass-Note-QAIA-April-20-2017.pdf?MOD=AJPERES&CVID=lKH2llr.

²⁰² Global Infrastructure Hub, "PPP contract management – Renegotiations: Queen Alia Airport", 20 December 2018. https://www.gihub.org/articles/ppp-contract-management-renegotiation/.

²⁰³ Ibid. 201.

The recommendation for the contribution was submitted by the project management unit to the steering committee formed for the project, which elevated the request to the Council of Ministers. Throughout this process, and aside from executive oversight, the IFC played an important role as a portfolio manager. Its team was essential in supporting the approval process by all lenders, including by assuring them feasibility studies were verifiable, supported by the available data and technically correct. As a result of this strong oversight and approval mechanism, the project was a success, with the airport having doubled its traffic and turning losses of US\$28 million per year into a US\$1 billion government revenue as of February 2017.²⁰⁴

Learnings and conclusions

Governments need to be prepared for renegotiations as they do happen frequently, either because of reasonable requests by one of the contract parties, or because of more unanticipated external factors. To ensure that renegotiations are managed in the best possible way and value for money for the public sector is protected, addressing the vulnerabilities in terms of abuse and corruption by rent-seeking officials is essential.

Renegotiations should be subjected to strong and independent oversight and approval procedures that allow for a fact-based and independent assessment into the reasons why prices or deliverables should be changed. Assessors, or panels of involved experts, should ideally have the authority to reject the proposed changes or be able to demand that the works are to be retendered in case a re-exploration of the market makes sense (i.e. when there is not too much time pressure). These assessments also benefit from taking place in the public domain, given that closed or secret negotiations significantly raise the risk of discretionary decision-making that hampers value for money and an equitable economic outcome.

In addition, and specifically for infrastructure asset management, including maintenance, clear guidelines should be developed. Publicly or otherwise externally verified budget estimates can help ensure that such numbers are accurate and may reduce the chance that, due to collusion or bribery, falsified budget estimates lead to inflated cost allocations for either renegotiated or existing contracts.

²⁰⁴ Alexandre Leigh, "Looking back: Was the Queen Alia International Airport PPP a success?", World Bank Blogs, 28 February 2017. https://blogs.worldbank.org/ppps/looking-back-was-queen-alia-international-airport-ppp-success.

PHASE 5: **EVALUATION AND AUDIT**

The final phase of the infrastructure project is the monitoring and evaluation phase. Credible and independent internal and external audits should be able to verify the application of the planned outcomes, as well as audit public works projects directly.

For international investment projects to be successful, strong and independently conducted monitoring and auditing procedures are critical to prevent and detect instances of corruption and other malfeasances such as fraud and embezzlement and to assure public service delivery.

As in other GPMs, the Convention's article 9 gives the legal basis for conducting evaluations and audits:

"9.2. Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, *inter alia:*

...

- (c) A system of accounting and auditing standards and related oversight;
- (d) Effective and efficient systems of risk management and internal control; and
- (e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph."

Article 10 c) states that measures on public reporting may include "publishing information, which may include periodic reports on the risks of corruption in its public administration". Similarly, article 13 on public participation stipulates that the "contribution of the public to decision-making processes" and the public's "effective access to information" should be encouraged.

GPM 8 looks at independent evaluation and audit mechanisms, in particular those by supreme audit institutions, that seek to assure that public resources have been used for their intended purposes and without (accounting) irregularities, as well as to make relevant recommendations to improve future spending.

GPM 8: Independent monitoring and auditing

Implement regulations which enable and require the independent monitoring and scrutiny of public sector contracts, including by government audit institutions as well as CSOs, professional institutions, and business associations, etc.

Instituting independent or ex-post audit procedures, understood as examining relevant financial records and business documents to ascertain that these are true and correct, can prevent dishonest behaviour by pursuing and delivering a culture of integrity among (senior) staff and compel them to comply with internal and financial control measures that have been put in place. This also helps to make sure that managers fulfill their fiduciary obligations.

Independently tracking revenues and expenditures of investment proceedings and comparing them to relevant budget allocations also offer the opportunity to detect financial misstatements, cases of corruption and other irregularities. This is important for protecting investors as it helps to reduce diversions or misallocations of investment funding and can enhance overall resource availability.

A more commonly used approach to mainstream such principles in contract management is by adopting performance-based contracting and results-based financing in public works.

Ever since the 1990s, performance-based contracts have emerged as an innovative tool to improve public sector accountability and performance in many countries.²⁰⁵ With clear contractual objectives and responsibilities, performance-based contracts often include an agreed set of monitorable performance targets with financial incentives and penalties. For example, contracting authorities may provide a bonus for better performance and cost savings, or withhold parts of the remuneration for late delivery of goods and services or overdue maintenance on an asset. Making remuneration conditional to the contractor's ability to meet the targets, performance-based contracting can help to enhance efficiency in public spending.

Similarly, results-based financing mechanisms, an umbrella term referring to programmes or interventions where individuals or institutions are rewarded when agreed-upon results are achieved and verified, can help to reduce integrity risks and incentivize strong contract performance by making payment conditional on agreed-upon deliverables. However, these approaches also require adequate financial resources and technical expertise to monitor contracts and projects. The complexity of larger projects also makes it challenging to factually prove if there was underperformance and a breach of contract. Making quality control and quality assurance an integral part of internal control is therefore crucial. This will also be

²⁰⁵ Organization for Economic Co-operation and Development (2006). Guidelines on Performance-based Contracts between Municipalities and Water Utilities in Eastern Europe, Caucasus and Central Asia (EECCA), OECD Publication, Paris, https://www.oecd.org/environment/outreach/36397942.pdf.

instrumental when conflicts occur, and legal disputes need to be settled (either in court or through alternative mechanisms).

Independent monitoring and auditing of contracts and financing structures, including those with performance-based conditions and deliverables, can involve many stakeholders, including civil society groups and business associations. The Integrity Monitor Programme of New York City, described in Box 11, is a good example of how this can work in practice.²⁰⁶

Box 11

Integrity Monitor New York City

In 1996, the Department of Investigations (DOI) of New York created its Integrity Monitor Programme, also known as the Independent Private Sector Inspector General (IPSIG) Programme, which establishes a method to permit the contracting authority (New York City) to enter into or continue contracts with companies that might otherwise be precluded from doing business with the City due to integrity issues.

Under the Integrity Monitor Programme, these companies may be awarded contracts if they agree to be monitored by an outside, independent monitor that reports to DOI, and to take other steps to ensure they have the requisite business integrity. For example, a company may be required to adopt and implement a code of ethics, to provide an ethics training programme for employees, and to submit periodic certifications to DOI concerning the business responsibility of the company and its subcontractors. An integrity monitor is an individual or entity with legal, auditing, investigative, and other skills, designated by the City of New York to help it monitor the activity of specified vendors as well as help the vendors reform their business practices so they can be considered for contracts of New York City in the future, or continue with a contract in progress. In addition to monitoring specific companies, DOI has also appointed integrity monitors to help the City of New York oversee integrity issues on important projects.

Twenty years after it began, the Integrity Monitor Programme is still in use in several city projects. For example, NYCHA Bond-B is the city's latest capital project bond issuance to fund repairs at NYCHA public housing developments across the city. The bond issuance has generated approximately US\$732 million—the largest bond proceeds ever raised for public housing authority capital funds. Of that amount, US\$476 million in bond proceeds will fund repairs to deteriorating building exteriors and systems at 24 public housing developments with approximately 32,000 residents. The proactive integrity monitor appointed for the NYCHA Bond-B programme assists NYCHA and the City in managing this large-scale project to ensure any red flags are raised early and any potential corruption vulnerabilities are caught sooner rather than later.

²⁰⁶ New York City Global Partners (2012). Best Practice: Integrity Monitor Program. https://www.nyc.gov/assets/globalpartners/downloads/pdf/NYC_Integrity%20Monitor%20Program.pdf.

Internal audits are usually undertaken by specialized departments with adequately trained staff, and external audits are typically completed by commercial firms offering such services alongside accounting and tax advisory services, for example. Public engagement can be instrumental in such monitoring and auditing efforts aimed to ensure that investment projects, and the authorities or agencies implementing them, work towards transparency and accountability.

Owing to the often complex and distinct role of governments in such projects, commercial auditing firms may have limited experience and ability to audit international investment projects.

Therefore, and in the case where public funds are used, audits are often conducted by supreme audit institutions (SAIs) whose mandates focus on safeguarding the accountability and transparency of public funds and strengthening the functions of public authorities.²⁰⁷ By making sure that (financial) controls are effective and by recommending ways in which (local) governments can avoid wasting their financial resources, SAIs have an important role in bringing about the benefits of independent auditing, including in foreseeing and managing integrity risks.

It is worth mentioning that, following the "Abu Dhabi declaration on enhancing collaboration between the SAIs and anti-corruption bodies to more effectively prevent and fight corruption", ²⁰⁸ States parties to the Convention have asked to include strengthening the role of SAIs in the prevention of and fight against corruption as a topic for future meetings and discussions in the UNODC-facilitated Open-ended Intergovernmental Working Group on the Prevention of Corruption. In response to the resolution, the UNODC secretariat has prepared a background paper that highlights several good practices in various States parties. ²⁰⁹ In addition, the political declaration adopted at the special session of the United Nations General Assembly against corruption (UNGASS) in 2021 highlights the importance of SAIs in the fight against corruption. ²¹⁰ In particular, SAIs' potential to enhance transparency and accountability in the management of public finances and government procurement funding services is reemphasized, as well as the need for strong independence of such oversight institutions to carry out their role effectively and free from any undue influence. ²¹¹ As part of its efforts to promote partnerships

²⁰⁷ According to INTOSAI, a supreme audit institution (SAI) is a public body of a State or a supranational organization that exercises, by virtue of law or other formal action of the State or the supranational organization, the highest public audit function of that State or supranational organization in an independent manner, with or without jurisdictional competence. According to a classification that is used frequently, there are three different models for audit institutions: the Westminster or parliamentarian model (under which SAIs typically report to the parliament, do not have judicial powers and tend to exercise ex-post controls), the court, judicial or Napoleonic model (under which SAIs tend to exercise ex-ante controls), and the board or collegiate model.

²⁰⁸ United Nations, Conference of the States Parties to the United Nations Convention against Corruption, Abu Dhabi declaration on enhancing collaboration between the supreme audit institutions and anti-corruption bodies to more effectively prevent and fight corruption. Resolution 8/13, CAC/COSP/2019/17, United Nations, Treaty Series, vol. 2349, No. 42146, pp. 48–92. https://sirc.idi.no/document-database/documents/united-nations-publications/47-abu-dhabi-declaration/file.

²⁰⁹ United Nations, Conference of the States Parties to the United Nations Convention against Corruption, Open-ended Intergovernmental Working Group on the Prevention of Corruption. The role of supreme audit institutions in the prevention of and fight against corruption. Background paper prepared by the Secretariat. 13 April 2021. https://www.unodc.org/ documents/treaties/UNCAC/WorkingGroups/workinggroup4/2021-June-14-18/CAC-COSP-WG.4-2021-3_e.pdf.

²¹⁰ Since 2021, UNODC and Supreme Audit Institution of the United Arab Emirates (SAI/UAE) is jointly implementing a three-year Programme to support the implementation of the Abu Dhabi Declaration.

²¹¹ Resolution adopted by the General Assembly on 2 June 2021, United Nations General Assembly, Thirty-second special session, Agenda item 8, Adoption of the political declaration, A/RES/S-32/1, 7 June 2021. https://undocs.org/A/RES/S-32/1.

in preventing and combatting corruption, UNODC launched a practical guide on enhancing collaboration between SAIs and anti-corruption bodies in 2022.²¹²

In collaboration with a range of international partners including the United Nations, the INTOSAI development initiative developed guidance for SAIs towards stakeholder engagement. ²¹³ INTOSAI formulated principles that emphasized the importance of setting up formal mechanisms, for example, to create feedback mechanisms for the public to make suggestions or lodge complaints about alleged irregularities that could serve as the basis for future audits.

The good practice case for this GPM is the KAMANAVA Flood Control Project, Philippines. The Government of the Philippines, through the Department of Public Works and Highways (DPWH) and with the technical cooperation and financial investments provided by the Japanese Government, implemented a Flood Control and Drainage System Improvement project for the KAMANAVA region to mitigate the deteriorating flooding conditions in the area.²¹⁴ The contract was awarded to a Japanese firm and the work was undertaken from June 2003 to June 2007.

In addition to the KAMANAVA Project, there are a number of other examples of good practices of civil society and local communities' involvement in evaluation and audit.

Integrity challenges

Poor oversight over the implementation and allocation of investment projects can lead to the abuse of investment resources and deter future investments. In addition, this can lead to decreasing levels of economic development and lower the quality and efficiency of investment activities, for example because of cost overruns that can delay or disable finishing the project. Moreover, poor or biased audits that fail to detect cases of fraud or corruption also expose firms to broader challenges, such as debarment or external monitorship. Such actions can severely taint the reputation of involved companies and reduce firm value and productivity.

²¹² UNODC (2022). Enhancing collaboration between Supreme Audit Institutions and Anti-Corruption Bodies in preventing and fighting corruption: A Practical Guide. https://www.unodc.org/documents/corruption/Publications/2022/Enhancing_collaboration_between_Supreme_Audit_Institutions_and_Anti-Corruption_Bodies_EN.pdf.

²¹³ INTOSAI Development Initiative (2016). *Guidance on Supreme Audit Institutions' Engagement with Stakeholders*. https://www.idi.no/elibrary/well-governed-sais/sais-engaging-with-stakeholders/697-idi-sais-engaging-with-stakeholders-guide/file; INTOSAI, "Signing of a Memorandum of Understanding between INTOSAI and UNODC", press release, 31 July 2019. https://www.intosai.org/news/mou-odc.

²¹⁴ The Kalookan, Malabon, Navotas and Valenzuela (KAMANAVA) area is an 18 square kilometre low-lying coastal terrain in the Manila Bay that hosts one of the most densely populated areas in the Philippines. The area is prone to frequent flooding, especially during high tides and heavy rains.

Good practice checklist

- Were the project financials and contracts subjected to an independent audit by the SAI or other independent audit institutions, and where appropriate, were other stakeholders involved in the audit process?
- Were stakeholders outside of the public sector involved in the evaluation or monitoring of the project?

Project good practices



Port and entrance to the North Navotas Navigation Gate [Pumping Stations – The KAMANAVA flood control project, Navotas City].

An independent performance audit by the SAI

In 2013, the Philippine Government conducted a performance audit of the project, adopting the so-called Citizens' Participatory Audit (CPA) technique that involved civil society groups and citizens as members of the audit team. ²¹⁵ Through the audit, it was established that the constructed system had not fully alleviated the flooding caused by high tide and heavy rains due to deficiencies in the structures and the design, and because of the existence of informal settlers and large garbage volumes in the project sites.

The CPA made several recommendations to institute remedial measures and enhance project design criteria for future flood control and drainage plans. The audit findings were discussed with the DPWH KAMANAVA Project Management Office (PMO) which has since been able to include lessons learned in relevant follow-up work, including investment projects for similar flood control infrastructure.

²¹⁵ Philippines, Citizen Participatory Audit, "The CPA Process", illustration. https://cpa.coa.gov.ph/wp-content/uploads/2018/09/CPA-Process-compressed.pdf.

The objective of reducing flood levels in the project area from one metre to below half a metre was therefore only partially realized. Moreover, the audit revealed that the effectiveness of the flood control project might not be fully attained due to inadequate personnel and communication facilities that were necessary for the efficient operation of the facilities.

Civil society engagement in audits

Drawing on this earlier work and the CPA, new lenders such as the World Bank and the Asian Infrastructure Investment (AIIB) are currently providing co-financing to the Philippines for a project to further improve the area's flood management systems by upgrading infrastructure in rivers and reducing impediments to water flow.²¹⁶

As part of this effort, the Government of the Philippines has also rolled out an extensive Integrity Management Programme to reduce the level of corruption vulnerabilities at the agency level and to ensure that integrity measures are practiced including by looking at public service delivery and asset management.²¹⁷

In 2012, a Memorandum of Understanding (MoU) for transparency and accountability was signed between the PMO, CSOs, the Office of the Ombudsman and the Commission on Audit.²¹⁸ In the spirit of this MoU, the Commission on Audit was to perform its regular functions as mandated by law and to uphold its CPA audit methodology. Bantay Lansangan,²¹⁹ a local CSO umbrella organization, was to monitor the delivery of quality services. Previously, this group had helped the DPWH to monitor the implementation of the local policies banning the use of the name or image of politicians on signs or billboards in government infrastructure projects.²²⁰

After the project was completed, an audit was commissioned by the Philippine SAI (Commission on Audit) by order 2012–1009 dated November 2012. Its findings were only possible thanks to the CPA having full access to the project's milestones and deliverables, including all technical and financial details.

²¹⁶ Asian Infrastructure Development Bank (AIIB), "Philippines: Metro Manila Flood Management Project", AIIB Media Centre, press release. https://www.aiib.org/en/news-events/media-center/profiled-projects/projects/4-Philippines-Metro-Manila-Flood-Management-Project.html.

²¹⁷ World Bank. "Philippines – Metro Manila Flood Management Project (English)", Project Appraisal Document, Washington, D.C.: World Bank Group, 2017. https://documents.worldbank.org/en/publication/documents-reports/documentdetail/192891506823261036/philippines-metro-manila-flood-management-project.

²¹⁸ Philippines, Official Gazette, "DPWH project implementers go for integrity and transparency in public service", Department of Public Works and Highways, press release, 19 June 2012. https://www.officialgazette.gov.ph/2012/06/19/dpwh-project-implementers-go-for-integrity-and-transparency-in-public-service/.

²¹⁹ Bantay Langasan is multi-stakeholder partnership that adheres to the principles of accountability, participation, predictability and consistency, transparency, commitment, and independence in pursuit of good governance in the Philippine road sector. DPWH maintains a list of accredited CSOs under this umbrella organization, see DPWH Accredited CSOs, Department of Public Works and Highways, Philippines. https://www.dpwh.gov.ph/dpwh/citizens/accreditedCSO.

²²⁰ DPWH department Order 217 – Prohibiting the Installation of Advertisements, Billboards, or Signs within the Road Right-of-Way of National Roads, Department of Public Works and Highways, Philippines. https://www.dpwh.gov.ph/dpwh/issuances/department-order/6175.

Other good practice examples

Citizen participation in the audit process in Argentina

Since 2003, the Argentinian General Audit Office (Auditoría General de la Nación or AGN in Spanish²²¹), as the supreme audit institution of Argentina, has been organizing and leading yearly participatory planning meetings on a broad range of topics. These thematic meetings provide a mechanism for citizen consultation through which the AGN incorporates proposals from civil society for its annual audit planning. Among others, this non-binding consultation mechanism has allowed the audit office to hold workshops and plan audits on specific issues, ranging from the detection of irregularities in the modernization and electrification of the Roca Railway to the management of a programme against the Chagas disease. Some years ago, a participatory audit process led to an evaluation of the degree of pollution in the Matanza-Riachuelo Basin.²²² The audit revealed that an envisioned implementer for the environmental sanitation programme worth over US\$800 million was not able to carry out its tasks and had also put the efficient execution of an IDB investment loan for the project at risk. As a result, the Supreme Court of Justice ruled some years later that the involved parties had to present a plan to clean the watershed and companies had to report on the preventive measures taken to stop the pollution of the area.

The Uganda Debt Network (UDN)

According to a publication of the Department of Economic and Social Affairs of the United Nations²²³, the project provided "a good illustration of how tracking expenditure outcomes can generate substantial additional resources by reducing misallocations and enhancing resource availability for development investments at the local level." The publication further noted that in the UDN, systematic monitoring of government budget commitments and implementation through community-based monitors identified a number of shortcomings. These included "the quality of building materials for the construction of classrooms not being in conformity with technical specifications due to the use of poor quality or inadequate materials, the absence of essential drugs from health centres, and teacher absenteeism". The community monitors reported these cases to the local authorities to "ensure appropriate action against errant officials and to increase or reassign resource allocations in line with budget provisions".²²⁴

²²¹ See https://www.agn.gob.ar/.

²²² Global Initiative for Fiscal Transparency, "Fiscal Participation in the Audit Process in Argentina", 1 May 2016. https://fiscaltransparency.net/citizen-participation-in-the-audit-process-in-argentina/.

²²³ UN DESA (2013). Citizen Engagement Practices by Supreme Audit Institutions. Compendium of Innovative Practices of Citizen Engagement by Supreme Audit Institutions for Public Accountability. https://publicadministration.un.org/publications/content/PDFs/Compendium of Innovative Practices of Citizen Engagement 2013.pdf.

²²⁴ Ibid.

Oversight on procurement contracts by the National Audit Office in Bahrain

According to the findings of the review of Bahrain under the IRM of the Convention in 2020, oversight over procurement decisions is carried out by the Procurement Board (art. 10 of the Procurement Act), which imposes penalties and decides upon complaints. The Procurement Board, whose seven members are appointed by royal decree, is an independent body that reports directly to the Cabinet (art. 8). The National Audit Office conducts financial, administrative and compliance audits. Audit results are referred to the procuring entity for corrective action and followed up by the Procurement Board. Complaints or appeals may be submitted by suppliers or contractors to the procuring entity prior to the contract coming into effect (art. 56) or to the Procurement Board thereafter. Complaints to the Procurement Board must be filed, in respect of local tenders, within ten days or, in respect of international tenders, within 20 days of the date of knowledge of the decision or action (art. 57). Recourse may be sought before the competent court within 30 days of the date of notification of the Board's decision (art. 58). Complaints regarding procurement violations may also be reported to the National Audit Office. Some measures against conflicts of interest are in place, which, inter alia, prohibit Board members and any person involved in tender activities from taking part in tender procedures, government auctions or sales if they have a "direct interest" in the proposed transaction, as defined in article 16 of the Procurement Act.²²⁵

Learnings and conclusions

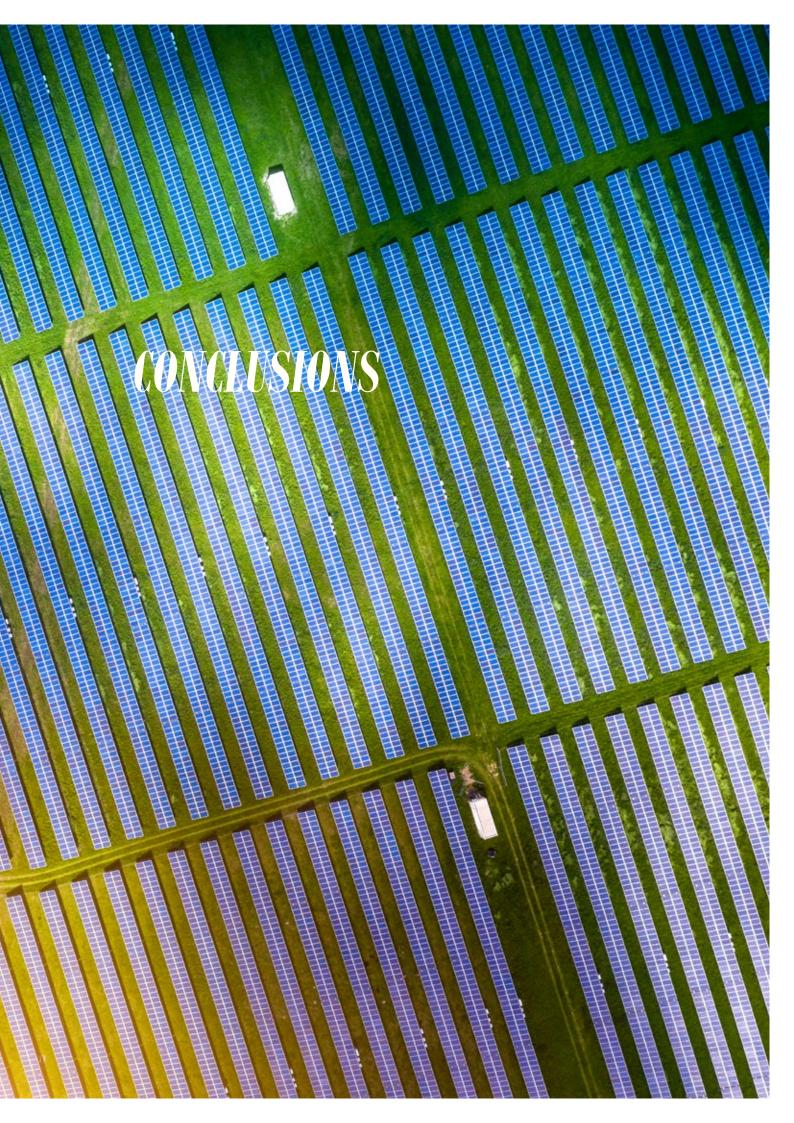
Instituting and maintaining sound and independent external audit procedures and expanding such work with involvement of the public have significant benefits.

These include providing better returns by preventing misallocations of funds, stronger public support and legitimacy for projects with societal objectives, and greater overall accountability through increased transparency and openness. Such audits also help to ensure that value for public money is achieved and can strengthen the ability of (local) governments to improve resource planning and design, particularly when conducting ex-post audits.

However, project audits or continuous monitoring are also important for informing remedial actions during project implementation. The case study demonstrates that such actions could have averted challenges if they were identified earlier. Independent monitoring, particularly by so-called coordinated or social audits, may help to identify deficiencies early on and ensure that if problems arise they receive quick resolution or response. The independence of auditors or monitors is crucial to that end, as is the effectiveness of the mechanisms for persons to report potential cases of fund mismanagement or corruption.

²²⁵ United Nations, Conference of the States Parties to the United Nations Convention against Corruption, Implementation Review Group. Note prepared by the Secretariat. Executive Summary of the review of Bahrein. 10 January 2020. CAC/COSP/ IRG/II/2/1/Add.9. https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ ExecutiveSummaries2/V2000137e.pdf.





his publication has highlighted good practices in a selection of international investment projects in which principles such as transparency, integrity and accountability were at the forefront during planning and implementation. The selected examples demonstrate that managing risks, controlling corruption and instilling integrity in international investment projects are possible and there are innovative ways to do this. The GPM checklists illustrate the main requirements of the relevant provisions of the Convention.

While there is no one-size-fits-all approach to promoting integrity – the unique and often complex specificities of the investment environment should always be taken into account – the good practices in this publication provide a number of common features that can serve as guidance for public officials managing international investment projects.

The key lessons emerging from the examples are as follows:

Integrity management throughout the whole investment cycle

Integrity management is an essential element for every phase in an international investment process. Whether it is the project design and appraisal phase, or downstream, the procurement process, each phase has its own set of risks which need to be addressed. Policymakers and project practitioners have a wide array of compliance tools at their disposal, from traditional ones such as codes of conduct, asset declarations, and due diligence, to more recent innovations such as Integrity Pacts, public disclosure of government information like contracting data, and beneficial ownership registers.

Planning from the start

Practitioners can undertake a number of measures to instill integrity throughout the investment cycle. Aside from a proper organizational culture based on *merit*, equity, and aptitude and objective criteria that guide the appointment and promotion of officials, those involved with the implementation of international investment projects can also benefit from making their own assessments and developing checklists to assist with identifying and mitigating integrity risks for each phase. This is particularly important in areas where there are heightened integrity risks, such as when negotiating concessions and PPPs or renegotiating contracts during or after the implementation period. While the checklist questions in the GPMs in this publication are not intended to be exhaustive, they can be considered a useful starting point for public officials involved in different stages of an international investment project.

Designing corruption out of the project

This report has shown that corruption risks can be mitigated in projects which take a strategic view of their economic and social purpose and in which the social needs have been designed into the project from its inception. Inadequately designed projects, with scant attention to the needs of the country, region or community and to the financial capabilities of the government and with inadequate control procedures, are open to abuse and more likely to deliver poor outcomes, in part due to corruption at some stages of the project cycle.

Just as the social and economic needs of the country need to be designed into the project, corruption risks need to be designed out of the project. This is an area in which government policymakers and project practitioners can exercise influence on how a project is conducted and delivered. The example of how a government's rigorous approach to PFM is applied at the project level is illustrated by GPM 3. The importance of internal control mechanisms in both the government that has the ultimate responsibility for the project and in the private sector and mixed ownership companies that have to deliver it is described in GPM 6. The careful planning in the pre-tender phase of the process of selecting and pre-qualifying bidders while allowing a transparent and open procurement which encourages fair competition is presented in GPMs 4 and 5.

Stakeholder engagement and public consultation

Genuine stakeholder engagement and public consultation, along with access to data and reporting mechanisms, are crucial for ensuring project integrity and transparency and are key components in minimizing corruption and fraud. All the projects in this publication benefitted from the input by stakeholders. Each phase of the investment cycle has its own element of stakeholders' input and feedback: the project needs identification phase and the appraisal phase assess in detail the needs of society which the project is aimed to address. GPMs 1 and 2 show how the local communities and other stakeholders are engaged in the project, providing critical inputs on the long-term social benefits of the project as well as the shorter-term social and environmental impacts of the project. During the pre-tender phase, as illustrated in GPM 4, open dialogue with potential bidders to understand the optimal technical solutions and the market's capacity to supply these solutions is often crucial to prevent ill-informed tender requirements and can reduce the chances of contract renegotiations (GPM 7).

Reporting mechanisms

During and after the tender, as described in GPM 5, sound complaining reporting and grievance procedures help to uphold the principle of value

for money. Publication of procurement and project data and public audit methodologies all enable civil society and the media to explore how public funds have been spent and where abuse has taken place, to expose wrongdoing, inform corrective action and enable (legal) redress.

Digitalization for integrity

All the GPMs in this publication emphasize the importance of digital technologies at each stage of the investment cycle. E-procurement and digitization are used throughout the process. The hallmark of digitalization and the new technologies can be seen in databases of suppliers, debarment lists, transparent "open" data, PFM, internal control systems, beneficial ownership registers and many other aspects of the public service provision, without which the GPMs would not have been possible. It should be noted that some jurisdictions may have limited access to digital technologies or the internet or have low levels of (digital) literacy. In these cases, traditional forms of communication will need to continue to be used in order to prevent a potential digital divide.

The human touch

Much has been made of creating a system that drives objective decision-making without the risk of undue interference from private interests. At the same time, however efficient the new technologies, the desired integrity outcomes will only happen when the public officials tasked to design and implement the project have vision, leadership, and trust, and act with honesty. The GPMs all show that careful recruitment of public officials in headquarters and in the field, thorough due diligence of staff, and a commitment to capacity-building and training – are critical elements of a successful management team.

Learnings for future generations

Policymakers and project managers that can be guided by learnings from previous projects will be in a better position to make the right choices and decisions as compared to those who have to build investment portfolios from scratch. Many of the projects in this publication benefited from the exchange of best practices and the handing down of knowledge from previous projects. GPM 2 shows how the project managers decide to create a whole learning website to enable others to benefit from the experience. GPM 3 show the roles of the MDBs – indeed lenders and investors can play a far more significant role beyond their financial contribution: they can share expertise on all sorts of integrity and governance challenges in large-scale projects.

Learning from past experiences of others, sharing with others during project implementation, and documenting and making accessible learnings for future generations – by working together in this fashion, policymakers and project managers can deliver projects that truly benefit society.

It is hoped that this publication will serve as a useful learning tool to spread best practices to a wider audience.

