

THE BUSINESS CASE FOR INTEGRITY PACTS

HOW CITIZEN MONITORING BENEFITS YOU

Transparency International is a global movement with one vision: a world in which government, business, civil society and the daily lives of people are free of corruption. Through more than 100 chapters worldwide and an international secretariat in Berlin, we are leading the fight against corruption to turn this vision into reality.

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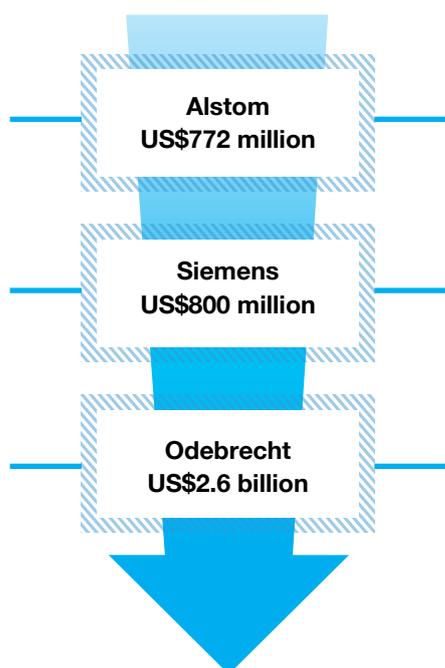


WHY DO COMPANIES NEED INTEGRITY PACTS?

It's all too common for companies to encounter corruption during public procurement processes. The Organisation for Economic Co-operation and Development (OECD) Foreign Bribery Report states that 57 per cent of foreign bribery cases which it assessed related to public procurement.¹ In the EU alone, corrupt bidding processes have increased annual contract costs by US\$5 billion.² The effects can be disastrous, including exposing companies to serious risks, such as:

- missed business opportunities, as businesses are competing in a field that is distorted by bribery
- reputational damage, through association with corruption
- potentially heavy fines, under laws which have a global impact, such as the US Foreign Corrupt Practices Act or the UK Anti-Bribery Act
- blacklisting and debarment from future bids (depending on jurisdiction).

Siemens (Germany) has paid a fine of US\$800 million for corruption, Alstom (France) has paid US\$772 million, and Odebrecht was fined US\$2.6 billion. In 2009, the UK Office of Fair Trading (OFT) imposed fines totalling £129 million on 103 construction firms in England that were found to have colluded with competitors to agree over-inflated bids for building contracts.



Governments and international institutions worldwide are clamping down increasingly hard on corruption in public procurement. This means companies urgently need to reduce their risk of being involved in bribery, collusion or extortion in bidding processes. So far, they are finding it difficult to do so in an effective and sustainable manner.

A SOLUTION? INTEGRITY PACTS.

Integrity Pacts bring a wealth of benefits to business – including confidence in fair competition, protecting a company's reputation, excluding corrupt competitors and acting as an important public signal of a company's commitment to transparency and integrity.

WHO IS CHAMPIONING INTEGRITY PACTS FOR BUSINESS?

Integrity Pacts have many influential supporters worldwide – in the business community and beyond. They include the International Chamber of Commerce, the World Economic Forum, the B20 and the United Nations. The Pacts have been used in more than 18 countries worldwide, including Argentina, China, Germany, Italy and South Korea. They have been implemented at various levels and across numerous sectors, with wide support from business associations and companies themselves. Since India's Oil and Natural Gas Corporation introduced the country's first Integrity Pact in 2006, the Pacts have been used successfully in over 90 major public contract awards in India.

“Governments and business should... act jointly against corruption in procurement. Together, they should enter into Integrity Pacts monitored by an independent third party... whereby government agencies and all bidders for a public contract agree neither to pay nor solicit bribes, and not to collude with competitors.” B20 Task Force Recommendations (the G20's business advisers)

WHAT ARE INTEGRITY PACTS?

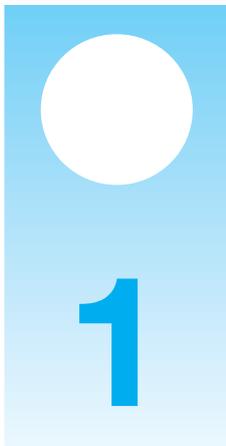
- Launched by Transparency International in the early 1990s as a solution to corruption in large-scale public sector procurement processes, Integrity Pacts are contracts that establish the rights and obligations of all parties to a public contracting process.
- The Pacts reiterate the commitment of contracting authorities and bidding companies to refrain from all forms of corruption and to publish all information related to the tender process (unless prohibited by law).
- Under the Pacts, the entire process – from needs assessment to the end of project execution – is supervised by an independent monitor, often from civil society. The monitor works to ensure that signatories' commitments are upheld and the bidding and contract implementation are fair and transparent.
- Each Integrity Pact is tailored to suit the needs of the respective country and process it relates to, working within national law.

INTEGRITY PACTS: SEVEN BENEFITS FOR COMPANIES

Every bidder benefits in a tender process involving Integrity Pacts. Advantages include:

1. a level playing field for all bidders
2. enhanced company or sector reputation
3. reduced costs of doing business
4. a more predictable business environment
5. protection from extortion
6. a trusted complaints channel
7. a mechanism for collective action against corruption

All bidders benefit in a tender process involving Integrity Pacts, with many advantages extending beyond the bidding process itself:



A level playing field for all bidders

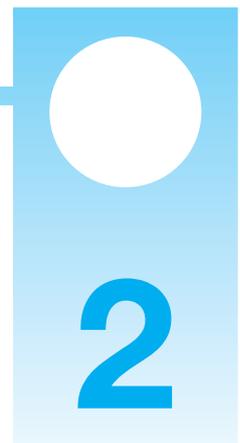
According to the World Bank, on average, 28 per cent of firms worldwide expect to give 'gifts' to receive a government contract.³ This puts companies with strong anti-corruption programmes at a severe disadvantage in bids without an Integrity Pact – especially in places where 'gift-giving' is common. Integrity Pacts give companies confidence that a bidding process will be fair: they can refuse to bribe and still expect to win big contracts.

"The Integrity Pact is an excellent tool. When an Integrity Pact is involved, we have confidence that the tendering process will be fair." Lahmeyer International India, Pvt.

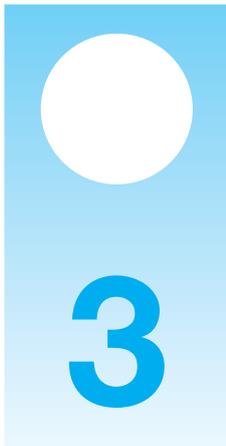
Enhanced company or sector reputation

Deloitte's 2013 survey on strategic risk found reputation damage was the biggest risk concern for business executives worldwide. Integrity Pacts are a powerful external measure to protect a company's reputation. Transparent decision-making on a project enhances the reputation of all bidders. And where multinational companies try to break new markets considered corrupt, Integrity Pacts show that a company is not doing 'whatever it takes' to establish a footing, but raising standards.

The Pacts can also enhance a whole sector's reputation. In El Salvador, the construction industry's concern for its public image led the Salvadorian Construction Industry Chamber to support the Integrity Pacts introduced by the Ministry of Public Works.



"I have come to see Integrity Pacts as a valuable tool for business. If we have nothing to hide, we also have an interest in protecting our reputations. Publicly committing to transparency and allowing oversight by a reputable NGO signalled that a company was a good one to do business with." *Angel Antonio Díaz Guevara, President, DISA S.A de C.V. (construction company, El Salvador)*



Reduced cost of doing business

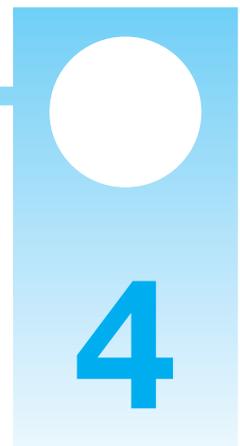
Integrity Pacts reduce the risk of fines under laws such as the US Foreign Corrupt Practices Act and the UK Anti-Bribery Act. Companies with employees caught engaging in bribery pay lower fines if they can show that they have taken action to prevent corruption. Integrity Pacts also mean bidders need not factor the cost of bribery into their dealings with a contracting agency, and the independent monitor addresses bidders' complaints – saving possible litigation costs.

In Mexico, under the Integrity Pact for the El Cajon hydroelectric project, the independent monitor investigated two allegations of wrongdoing during bidding, saving the companies involved expensive legal fees. Both proved unfounded, and there were no more complaints from bidders about the tender process.

A more predictable business environment

By promoting fair competition and reducing reputational risk, Integrity Pacts create a more predictable business environment. Companies can bid for projects with the assurance that contract award will be based on objective, transparent criteria. Contracting agencies must carefully weigh the criteria for awarding contracts in the bidding documents, and must use them to justify their decisions.

"The Integrity Pact ensures that the bidder is selected on the basis of fair criteria, and serves all the stakeholders as a means of protecting the integrity of the project." Siemens AG, Germany



Protection from extortion

Integrity Pacts are a powerful tool to help business resist demands for bribes or other favours from contracting agency staff. Employees can point to the Integrity Pact and the independent monitor actively reporting on corruption.

"The introduction of Integrity Pacts has made companies abstain from bribing, providing an assurance against any form of corruption, including extortion by procurement officials." Suresh Govindarajan, Deputy Chief Vigilance (Compliance) Officer

A trusted complaints channel



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A lack of trust often leads to complaints being made by bidders or affected parties during or after the bidding process, causing expensive stoppages. Under Integrity Pacts, there are fewer complaints and court orders from unsuccessful bidders. The independent monitor handles complaints in a fair and timely manner, escalating issues to the appropriate authorities when necessary.

Analysis by India's Oil and Natural Gas Corporation showed that many of the accrued savings from its major contracts involving Integrity Pacts were a result of the Pacts enabling bidders to raise concerns. This headed off complaints and litigation costs.



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A mechanism for collective action against corruption

Joint action by business to fight fraud and corruption is in every company's interest. Integrity Pacts allow companies to take action together. In Colombia, pipes make up at least 40 per cent of the cost of water supply projects, which are highly vulnerable to corruption. In 2005, inspired by Integrity Pacts, nine private sector companies – accounting for almost 90 per cent of pipe sales in the country – signed the Pipe Manufacturers Anti-Corruption Agreement.

"Integrity Pacts are arguably an archetypal example of a collective action anti-corruption approach." Dr Caryn Peiffer and Professor Heather Marquette, in: Ethics in Public Policy and Management: A Global Research Companion



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FREQUENTLY ASKED QUESTIONS

Companies not yet familiar with Integrity Pacts often ask these questions:

Will involvement with Integrity Pacts link my company with corruption?

Because Integrity Pacts tackle potential corruption, some companies fear that association with them might imply that they are corrupt. But Integrity Pacts are not about corruption – they are about preventing it. They work externally to protect business reputations, enabling companies to show their support for ethical public procurement.

Our company has a code of conduct and a strong anti-corruption programme. Can we still benefit from Integrity Pacts?

Integrity Pacts complement internal compliance programmes by addressing external issues – especially by assuring a level playing field for all bidders. Under an Integrity Pact, compliance programmes put a company at an advantage, because staff will already be used to addressing integrity issues.

Do Integrity Pacts increase government bureaucracy and slow down project processing?

Companies fear delays due to the need to train officials and bidders on the Integrity Pact, and the need to familiarise the monitor with technical project details. However, Pacts frequently speed up the awarding of contracts by helping address complaints from bidders quickly and effectively.

Will an Integrity Pact be expensive for my company?

The costs of Integrity Pacts and the independent monitor are modest in relation to overall project costs, and are often borne by civil society organisations or the contracting agency. Where bidders do contribute, the costs are limited and these costs are considered by companies to represent excellent value for money in relation to the facilitation of fair competition and reputation enhancement they offer.

In Mexico, the Integrity Pact for the large La Yesca hydroelectric project cost an estimated US\$68,000 – less than 0.01 per cent of the total project cost of US\$760 million.

Will my company have to prepare much additional information for the independent monitor?

Under an Integrity Pact, all a company has to do is give the monitor access to all tender-related information and documentation, on request – unless this is prohibited by law. Bidding companies do not need to prepare any additional information.

To find out more about how Integrity Pacts could help **your business**, connect with Transparency International at: integritypacts@transparency.org

NOTES

- 1 See OECD Foreign Bribery Report at www.oecd.org/corruption/oecd-foreign-bribery-report-9789264226616-en.htm
- 2 See The True Economic Cost of Corruption in Europe at www.rand.org/blog/2016/03/the-true-economic-cost-of-corruption-in-europe.html
- 3 See World Bank Enterprise Surveys at www.enterprisesurveys.org/data/exploretopics/corruption

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