

### The Integrity Pact

The Integrity Pact is a tool developed in the 1990's by Transparency International to help governments, businesses and civil society to fight corruption in the field of public contracting. IP establishes mutual contractual rights and obligations to reduce the high cost and distortionary effects of corruption in public contracting.

### The Mechanism

IP is intended to make public procurement transparent by binding both parties to ethical conduct. It also envisages a monitoring role for civil society who are the ultimate beneficiaries of government action. IP should cover all activities related to the contract from pre-selection of bidders, bidding and contracting, implementation, completion and operation.

### Terms of contract

The Public Authority commits that:

- no official will demand or accept any illicit gratification to give any of the parties an advantage at any stage of the project.
- all necessary and appropriate technical, legal and administrative information related to the contract will be made public
- none of the officials will make available confidential information to a bidder/contractor to give unfair advantage in the contract
- declaration by all concerned officials any conflict of interest and disclosure of own and family assets
- officials will report to appropriate government authority about any breach/attempt to breach a commitment.

The Bidder commits that:

- they will not offer any illicit gratification to obtain unfair advantage
- they will not collude with other parties to impair transparency and fairness
- they will not accept any advantage in exchange for unprofessional behavior
- will disclose all payments made to agents and intermediaries
- it will demonstrate existence of organization-wide code of conduct forbidding unethical practices

### Penalties

For failure to implement IP, officials will be subject to penal action and bidders will face cancellation of contract, forfeiture of bond, liquidated damages and blacklisting. Action will not require criminal conviction but be based on “no-contest” after the evidence is made available or there can be no material doubts. Disputes in IP implementation would be resolved by arbitration detailed in IP.

### Implementation

Monitoring is a key aspect of IP implementation. Public access of all relevant information is a necessity. It calls for a forum in which representatives of civil society can discuss the contract itself. The concept of IP includes the existence of Private Sector Inspector General (IPSIG) which will be delegated with the rights of civil society to monitor the contract; suggested bodies are government office with non involvement, TI chapter or an NGO. The monitoring and supervising procedures are to be specified and at the conclusion of the contract a certificate of corruption-free will be issued.

### Observations

As a concept it is undeniably a model for transparency in public procurement. While it is an ideal, its implementation will require will on the part of both vendor and purchaser. Without effective implementation, it will remain merely as an additional part of the tender files. Propensity to seek legal intervention and an assumption that terms of contract are not particularly sacrosanct is a part of the procurement process in the country. In these circumstances, arbitration will have limited value in the event of breach of IP. Level of evidence for pointing out breach is also liable to be disputed. Therefore, its implementation will suffer. India’s stand in the latest WTO round against transparency in public procurement may render this concept a non-starter.

The identification of a monitoring agency also will pose problems. TI India may not have the level of acceptability that TI has in other countries. NGOs could be hijacked by vested interests. The genesis of IP is also questionable since it has its roots in the OECD convention against bribery following which west-based MNCs have problems in participating in third world bids without indulging in bribery – IP is intended to provide a level playing field so that non-OECD country-based bidders are also subject to the same limitations.

However, it is certainly worth pursuing as a model for future public procurement. The need for a debate on the adoption of IP, with appropriate modifications, can be initiated by the Commission.

