

INTEGRITY PACTS: A HOW-TO GUIDE FROM PRACTITIONERS

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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INTRODUCTION

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This publication was written in four days, in a “book sprint”¹ from 30 November to 3 December 2015, in Berlin.

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¹ A Book Sprint brings together a group of experts to produce a finished book in 3-5 days. No advance preparation by participants is required – the group is guided by a skilled facilitator, from zero to published book.

PREFACE

“Integrity Pacts” are a tool developed by Transparency International for tackling corruption in public procurement. They have been applied in many countries around the world for over 20 years. There are even countries in which the use of the Integrity Pact has become part of the law or governmental procedures, such as in India or the “Social Witness” in Mexico². In other countries, the adoption of an Integrity Pact for specific public procurement projects is a result of strong advocacy efforts from civil society. Many guides, manuals and handbooks on the topic have been published. The most well-known is Integrity Pacts in Public Procurement: An Implementation Guide,³ which is a hands-on, practical guide designed to familiarise government officials in charge of public procurement processes with Integrity Pacts, and to provide them with the tools and ideas to apply them. This document will be referenced regularly throughout the present document.

The purpose of this publication – which was written collaboratively in only four days – is to contribute to the already existing literature on Integrity Pacts, but from a civil society perspective. This document is based on the experience of the Transparency International global network. Representatives from 10 Transparency International chapters were brought together to review the challenges that are faced in the different stages of Integrity Pacts, and to document the alternatives they have found to overcome these challenges. These include challenges from the moment Integrity Pact implementation is being considered, until the time when the final results are evaluated. This guide does not intend to convince anyone of the usefulness of Integrity Pacts: rather, it is designed for those who are considering implementing, or have already decided to implement, an Integrity Pact. It is for those who are new to Integrity Pacts – who have questions about where, when and how to start implementing them.

In writing this guide our intention was to show that Integrity Pacts can be adapted and adjusted according to the context in which different practitioners work, and to show that there are alternative responses when a challenge is faced. Behind the experience of these 10 Transparency International chapters there are many different stories. What is common to every one is the goal to curb corruption in the public procurement process, in order to make sure that procurement projects have the expected effects on citizens – especially the most vulnerable ones.

We acknowledge that many other experiences and other advice could be included in this guide. However, we hope that these examples will inspire you and give you ideas for how to deal with the challenges you encounter. We know there is no one recipe for implementing Integrity Pacts. Creativity and intelligence are needed to overcome the inherent challenges that arise when fighting corruption. We would therefore like to keep this guide up to date with experiences from around the world. If you have an interesting experience with Integrity Pacts, or any related story you would like to see included in this guide, please do so by sending it to integritypacts@transparency.org.

We now invite you to get started. To help you, we provide a few words on the content of the guide. After introducing Integrity Pacts and their relationship to other tools addressing corruption in public procurement, the guide is structured according to the different phases of an Integrity Pact’s life-time:

- Identification: when a civil society organisation seeks to garner support to implement an Integrity Pact and identify a suitable procurement process for its application.
- Preparation: when a project has been selected and the relevant stakeholders have agreed to apply the Integrity Pact.
- Implementation: when Integrity Pact implementation is under way.
- Evaluation: when you look back to see whether you have achieved what you set out to achieve.

Within these sections, the material is presented in a question and answer format. In this way you should be able to specifically target the information that is relevant to the challenges you are grappling with.

² In Mexico, since 2004, the federal government has required the involvement of “social witnesses” in public bidding for goods, works, and services over a certain threshold value. Non-government organizations and individuals may be selected as social witnesses by the Ministry of Public Administration. Their function is to propose strategies for improving transparency, impartiality and compliance with the legal framework, and must issue an alert if they detect any irregularities in the course of the procurement.

³ http://www.transparency.org/whatwedo/publication/integrity_pacts_in_public_procurement_an_implementation_guide.

WHY THE INTEGRITY PACT?

An Integrity Pact is a tool that seeks to improve transparency, accountability and integrity in public procurement. It was developed by Transparency International to help governments, businesses and civil society fight corruption in public contracting. It consists of a process, typically led by a civil society organisation that includes an agreement between a government agency and all bidders for a public sector contract to abstain from corruption during the process and commit to compliance with actions that are conducive to a clean and efficient procurement process. An “independent monitor”⁴ oversees Integrity Pact implementation and ensures all parties uphold their commitments under the agreement, bringing transparency and oversight to all stakeholders in a contracting process. Over the years, Integrity Pacts have been adapted and utilised in various countries, in different contexts and in varying procurement procedures, by Transparency International chapters, governments and other civil society organisations.

There are several initiatives, instruments and tools available to promote integrity and prevent corruption in a contracting process that are complementary to, or in some cases alternatives to, the Integrity Pact. An assessment of how these tools align with the Integrity Pact has been carried out through a Learning Review conducted in 2015.⁵ We urge you to read this as part of your research process before embarking on an Integrity Pact. The ultimate choice of what approach or tool to use when seeking to tackle corruption in public procurement varies depending on the national context, resources, and opportunities.

Two general approaches to curbing corruption in procurement include increasing transparency in the process, and increasing oversight by external agents. More specifically, these approaches can focus more on making key information available to the public; on bringing together different actors involved to influence their behaviour; or on observing and monitoring the different stages of public procurement processes.

One specific way to increase transparency in public procurement is through **open data**. Open data, as applied to public procurement, means ensuring that information related to government contracting is available in formats that allow the data contained in documents and databases related to budgets, tenders, contracts and other relevant

reports to be re-used. The information can then be used by all of the different parties that are participating in a contract, as well as by external actors – such as other civil society organisations – in a number of different ways, bringing new perspectives and insights to the monitoring of the procedure. However, open data requires someone willing and able to delve into the information and to raise an alarm if need be.

Integrity Pacts are complementary to open data in public procurement. Through open data, the information or data is easier to manage and use in external monitoring and also allows broader stakeholders, like investigative journalists and citizens, to contribute to the monitoring of a procurement process. The time when an Integrity Pact is being negotiated can also be a good moment to suggest the use of open data in the process. Transparencia Mexicana – the Transparency International chapter in Mexico – has been able to find synergies between the application of open data in public procurement and generating greater impact in its public procurement monitoring work.

Among the different tools and measures that we promote to increase integrity in public procurement is the adoption of the **Open Contracting Data Standard**, developed by the Open Contracting Partnership and its allied organisations. This tool provides a guide about the key data to be disclosed in a contracting process, including the tendering stage, and the format in which it has to be published in order for it to be considered as open. Recently, together with the Mexican government⁶ and the World Bank, we agreed on the implementation of this standard for the contracting procedures to be undertaken for the construction of the new Mexico City International Airport.

Another common approach to increasing integrity in the public sector that is increasingly being used as part of the Integrity Pact approach is through seeking increased engagement in oversight by stakeholders outside government. Both civil society organisations and citizens are finding opportunities to be more involved in public processes, including in public procurement. **Social auditing** provides an opportunity for society to take stock of all the activities in the contracting process independently and without undue influence or interference from other

⁴ The independent monitor is a civil society organisation that is in charge of implementing and monitoring/coordinating external monitors of an Integrity Pact.

⁵ Basel Institute of Governance and Blomeyer and Sanz (2015), Learning Review: Transparency International's Integrity Pacts for Public Procurement. p. 64. Available at: <http://www.transparency.org/whoweare/accountability/evaluations/0/>

⁶ Different Mexican government agencies have been involved, including the Coordination of the National Digital Strategy in the Office of the President of Mexico, the National Institute for Access to Information, the Ministry of Public Administrations and the Ministry of Communications and Transport.

stakeholders. The benefits of social auditing are that society will feel a sense of belonging to the process and will also take pride in the contract and own it. They will also feel part and parcel of the process and be in the driving seat. Social auditing is a type of activity that can be complementary to an Integrity Pact.

Through specific training, citizens are equipped with the necessary skills for identifying and reporting corruption witnessed during the implementation of the Integrity Pact process. Citizens can help in identifying and denouncing corruption, and ensuring quality and efficiency in the course of implementation. Social auditing, as an independent monitoring mechanism tool used by citizens, provides an opportunity for citizens to blow the whistle if they detect areas of corruption in the contracting process. In countries like Rwanda, the Transparency International national chapter has found a way to engage citizens in an Integrity Pact.

Follow  to see more.

Integrity Pacts can encompass, but may also go beyond, many of these approaches because they bring together a series of elements to curb corruption. Integrity Pacts: seek to engage governments and businesses in agreements to abstain from corruption; seek to engage civil society in monitoring these agreements; increase transparency as a precondition for performing monitoring; and open up the possibility of greater citizen engagement. If implemented properly and with a keen eye on the potential linkages, Integrity Pacts have the ability to prevent corruption, reduce inefficiencies and enhance trust.

PRACTITIONERS' EXPERIENCES

INTERACTION BETWEEN INTEGRITY PACTS AND E-PROCUREMENT IN INDIA

E-procurement has become a mandatory part of the procurement process in many countries. In the Indian context, e-procurement has become an effective tool to deal with cartels and to improve efficiency – in particular in terms of cost savings. On many occasions, the contract gets settled at a lower value than originally budgeted. Pairing Integrity Pacts with e-procurement can be a strong combination. While submitting the financial and technical bid online, the vendors have to sign the Integrity Pact document and upload it to the online portal. This is beneficial as it is clear when all documents are submitted, and there are no opportunities for unilateral adjustment without leaving a trail. During implementation, it is also helpful as it allows better access to information for the monitor, including better evidence to support the building of a case in the event of any violations.

A man with a beard, wearing a white button-down shirt, is speaking into a silver microphone. He has his mouth open and is gesturing with his hands. In the background, several men are seated on chairs, listening. One man is wearing a cap and glasses, another is wearing sunglasses. The setting appears to be an indoor meeting or press conference.

INTEGRITY PACT IDENTIFICATION

WHERE DO I START?

Public procurement does not occur in a vacuum – rather, it takes place within a country’s legal framework and it plays out within the particular political and societal context. Given this, the Integrity Pact approach brings together different stakeholders, each with different motivations and expectations.

Bearing this in mind, there are a number of early considerations that should be taken into account before beginning to prepare the Integrity Pact, in order to ensure the appropriate conditions are in place to proceed. These include external considerations regarding the suitability of the legal framework and stakeholder inclusiveness, as

well as internal management considerations regarding ensuring sufficient internal capacity of the monitoring team and picking the right project. Ways of engaging with these early considerations are discussed through the rest of this section.

We have found that addressing these early considerations is an essential part of the overall approach to constantly identifying, analysing and addressing risks as they arise throughout the course of the Integrity Pact. We will return to this issue in subsequent sections (indicated by reproduction of the chart below), to explain further how we deal with risk.

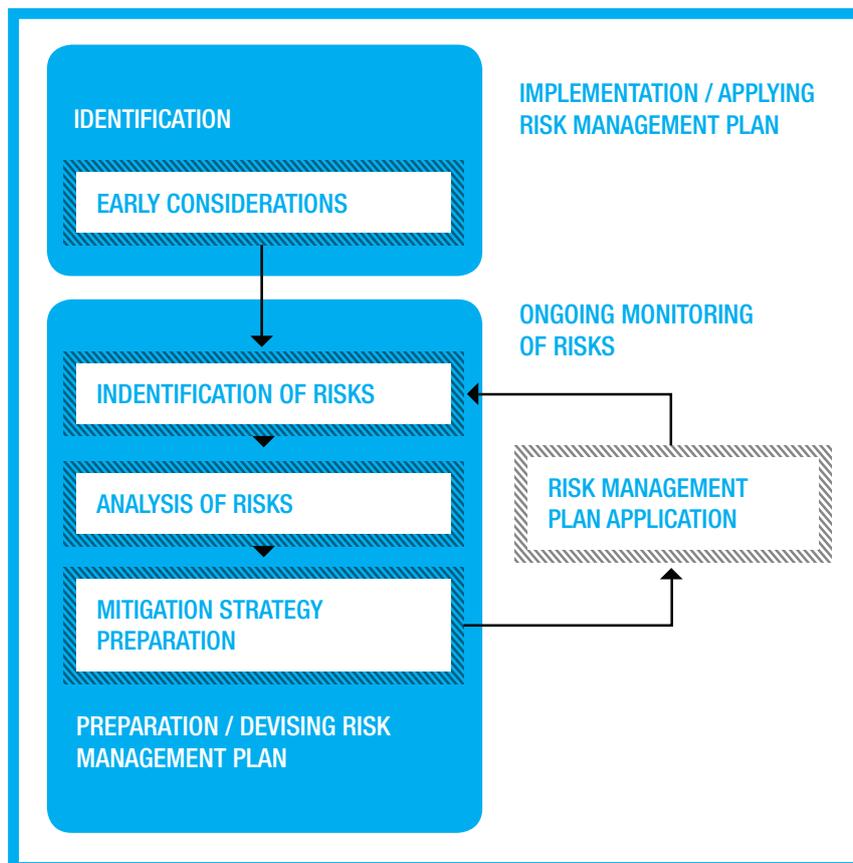


FIGURE 1: IDENTIFYING AND MANAGING RISKS

LAWS AND INTEGRITY PACTS: HOW DO THEY FIT TOGETHER?

Over the years, many models of Integrity Pacts have been implemented. In some cases, the Integrity Pact is part of the government's procurement process, such as in India and Mexico. In most other cases the Integrity Pact is promoted, managed and implemented by a civil society organisation.⁷ For countries that have not introduced Integrity Pacts into law, it is important to understand how the Integrity Pact can be accommodated within the country's legal framework before you start to prepare your Integrity Pact. An Integrity Pact does not seek to create new laws or replace governmental regulation – rather, it seeks to enhance implementation of the existing regulation and address issues that the law may not accommodate. In this section we will share with you how we have gone about tackling this issue with the help of a few examples.

In preparing to design your Integrity Pact it is advisable that you undertake a mapping and analysis of the legal framework in your context, noting possible constraints to the activities proposed by an Integrity Pact. A typical legal framework that affects public procurement can include a series of laws and regulations related to procurement, auditing and oversight, public administration and/or corruption. It is, however, also important to remember that other laws and regulations can be relevant: such as laws relating to budget and fiscal policy, or internal regulations such as codes of conduct for public officials. Identifying all possible applicable laws and regulations can be a good first step.

The Integrity Pact Implementation Guide sets out the three guiding principles of the Integrity Pact: transparency, stakeholder involvement and accountability.⁸ These three elements should be kept in mind when assessing the legal framework. Some of the questions you might ask yourself during this process are set out below. This should not be seen as an exhaustive list but as an indication of the types of issues to address.

Transparency is a necessary component of an Integrity Pact, given that information is necessary to achieve its goals of creating a level playing field, preventing corruption and allowing monitors to identify potential cases of malfeasance. The assessment of the legal framework should include (among other issues):

- What type of information must be published about public procurement processes? How and when must it be published?
- Does the regulation restrict access to information necessary to implement the Integrity Pact?
- Are there other ways to obtain the necessary document, like an access to information law?
- Is additional information required for the proper implementation of the Integrity Pact not foreseen in the law?
- What does the law say about documenting the procurement process?
- What general civil law regulations are applicable to information disclosure?
- What does the law say regarding confidentiality?

⁷ To read more about such models, please read Basel Institute of Governance and Blomeyer and Sanz (2015), Learning Review: Transparency International's Integrity Pacts for Public Procurement. p. 41. Available at: <http://www.transparency.org/whoweare/accountability/evaluations/0/>

⁸ Transparency International (2014), Integrity Pacts in Public Procurement: An Implementation Guide, p. 36.

Stakeholder involvement is a second key element of an Integrity Pact as Pacts brings new actors – the external monitor and citizens – to the procurement process. The assessment of the legal framework seeks to ensure the participation of these stakeholders takes place within the law and regulations. Some questions that should be considered also include:

- Can external actors, such as civil society organisations/external monitors, take part in the procurement process?
- Does the regulation prevent civil society/monitors playing a role in the clarification or modification process?

To achieve **accountability**, responsibilities have to be clear for each participating actor, the rules of the game must be clear and known and sanctions must be foreseen in cases of mismanagement or corruption. The Integrity Pact must work in line with the accountability mechanisms provided by the law. Some relevant issues to consider when analysing regulations can include:

- What mechanisms does the law/regulation provide for identifying and sanctioning corruption in the procurement process?
- What mechanisms does the civil code provide for infringing a contract?
- Who is responsible for investigating and sanctioning?
- How can the investigation and sanctioning mechanisms be integrated into the Integrity Pact document?

This process will help to ensure the Integrity Pact does not contradict the law or impose activities outside what is permitted by law. It will also help ensure the Integrity Pact complements and leverages the law, regulations and mechanisms to ensure probity and integrity. In an extreme case, where you find from the legal framework analysis that implementing an Integrity Pact in your country is unreasonably difficult, you may want to advocate for a legal environment that is more open to civil society participation.

PRACTITIONERS' EXPERIENCES

ADAPTING AN INTEGRITY PACT TO THE LEGAL FRAMEWORK IN BULGARIA

Before undertaking our first Integrity Pact project at Transparency International Bulgaria, we carried out a thorough analysis of the legal framework in the country in order to guide our development of the Integrity Pact document. As a result of this analysis we identified that the Procurement Law did not allow outside engagement in closed sessions of the Procurement Boards. In order to mitigate this limitation, we added a clause in the Integrity Pact document that allowed monitors access to information relating to that process after it occurred. Access to this information was not specifically denied by the law. In this way, the limitations of the law were taken into consideration in the Integrity Pact, yet the capacity of the monitor to perform his job was safeguarded.

INDIA'S EXPERIENCE IN VETTING ITS INTEGRITY PACT

Once the Integrity Pact became institutionalised in India and the national anti-corruption body gave its support to the Integrity Pact, the Integrity Pact document that we developed at Transparency International India was referred to the Solicitor General of India, who vetted it to ensure its compliance with India's legal framework. As a result of this process we were able to avoid any conflict between the Integrity Pact document and the legal framework of the country, without having to make an intensive investment of our time or resources.

PRACTITIONERS' EXPERIENCES

ALIGNMENT OF SANCTIONS IN THE RWANDAN INTEGRITY PACT WITH THE LEGAL FRAMEWORK

At Transparency International Rwanda, when we first introduced the Integrity Pact we ensured close alignment with the law on public procurement. Our Integrity Pact referenced the legal articles on anti-corruption measures, disbarment and other administrative sanctions against individuals or companies who deviated from the procurement law.

HEADING TOWARDS AN INSTITUTIONALISED MODEL INTEGRITY PACT IN THAILAND

In Thailand, the Anti-Corruption Organisation of Thailand and the Thai Institute of Directors have led the charge to integrate the Integrity Pact into the draft procurement law, which is now going through the official approval process. The draft focuses on establishing the management mechanism for the Integrity Pact, which will be adopted in future public procurement bidding processes. The law will allow civil society and private sector representatives to join as members of the Preventing Corruption in Public Contracting Committee organised by the Comptroller General's Department as the bidding-process oversight agency. The committee's role is to supervise the public procurement process and appoint monitors for the different processes. This monitor's role will extend from the beginning, with the drafting of the terms of reference and setting the criteria for contractor selection, through to identifying the process for selecting the winning bidder, right up to project delivery.

IS MY ORGANISATION PREPARED TO UNDERTAKE AN INTEGRITY PACT?

When the Integrity Pact is promoted, managed and implemented by a civil society organisation an internal capacity assessment at an early stage is crucial for successful Integrity Pact implementation. Broadly speaking, each civil society organisation willing to initiate an Integrity Pact, as well as any expert or staff member engaged in the Integrity Pact, must display independence, professionalism, a good reputation and political impartiality.⁹

More concretely, the capacity required to implement an Integrity Pact includes (but is not necessarily limited to) the following key elements:

- **Project management and coordination capacity:** Integrity Pact implementation can be equated to project cycle management, and the competency of the civil society organisation/team initiating an Integrity Pact will be critical to success. Importantly, the sufficiency of the civil society organisation's project management capacity must be evaluated specifically with regard to the scope and complexity of the project to be monitored.
- **Expertise in public procurement processes:** General expertise in public procurement processes is crucial for every civil society organisation initiating an Integrity Pact. This expertise is necessary, in order for the organisation to be able to understand how the Integrity Pact operates within the national public procurement framework
- **Access to human resources:** Each Integrity Pact will have different human resources needs, not all of which will be available in-house. Supplementary temporary expertise may be required in numerous fields, depending on the specific theme or sector or the public procurement project (infrastructure, technology, health). It is important to access additional human resources as and when required.

- **Capacity to effectively communicate and disseminate its work:** Communication takes many forms throughout the stages of an Integrity Pact, from advocating for support, to sharing findings, mediating between bidders and agencies or garnering citizen support. Each of these communication needs require attention, resources and strategies. The civil society organisation should ensure it has the capacity necessary to meet the Integrity Pact's particular needs.

Follow   to see more.

In reality, it is quite rare that a civil society organisation will already have the full capacity needed to implement an Integrity Pact within its organisation. When internal capacity for Integrity Pact implementation is lacking, a number of options are possible, as set out in the Integrity Pact Implementation Guide.¹⁰ Our experience has shown the following to be possible options:

- **Engagement of local experts:** whenever gaps in the civil society organisation's team are identified, external expertise may be sought. High profile public procurement process experts, legal advisors and specific thematic experts can be included in the Integrity Pact implementation process. It is the responsibility of the managing civil society organisation to ensure that the external experts who take part in the Integrity Pact understand the principles of the Pact and take steps to ensure there is no conflict of interest.
- **Engagement of international experts:** in some cases when the monitored project is highly specific, the pool of available expertise within a country or city may be extremely limited. This can mean there are next to no options for securing impartial local experts. In this case, you could consider international experts. This option might add to the cost, so be aware of the budget and language implications.

⁹ Transparency International (2014), Integrity Pacts in Public Procurement: An Implementation Guide, Chapter 2: What are the main requirements for a good monitor?

¹⁰ Transparency International (2014), Integrity Pacts in Public Procurement: An Implementation Guide, p. 73

- **Partnerships with relevant sectoral (or other) civil society organisations:** partnership agreements with other civil society organisations that specialise in the sector of the public procurement project being monitored can ensure access to sector-specific knowledge and information that will be of benefit to the Integrity Pact. Partnering in this way can cost a fraction of the cost of engaging consultants.
- **Partnerships with other stakeholders:** partnerships with media or relevant oversight institutions can also be of benefit to your Integrity Pact. In some cases it is desirable to engage the media to report on the findings of the Integrity Pact, to boost trust among citizens or increase social pressure for action on potential negative findings.

PRACTITIONERS' EXPERIENCES

SUPPLEMENTING INTERNAL CAPACITY IN BULGARIA

At Transparency International Bulgaria we also faced the “Do I have enough capacity to do that?” question when monitoring infrastructural projects implemented several hundred kilometres away from our base. The usual approach would be to secure enough resources to enable experts to regularly visit the site. As an alternative, we trained local non-governmental organisations to do the basic monitoring activities needed, thus reducing the costs related to field visits and bringing additional benefit by improving local non-governmental organisation capacity.

DRAWING ON EXPERTS THROUGH TRANSPARENCIA MEXICANA'S KNOWLEDGE NETWORK

For a number of reasons, including funding and restrictions on permitted staffing levels at Transparencia Mexicana, we decided to establish a knowledge network, by identifying specialists from a wide range of fields. These experts support us in the monitoring of public procurement processes, as “social witnesses”. We keep a database that records their contact information, their professional background and a record of their experience with us. The database now comprises more than 100 contacts, ranging from civil engineers to mathematicians. The idea behind this knowledge network is that we will be ready to draw on the most suitable specialist as and when required. Specialists can provide technical assistance on concrete issues or can work with us for a longer period of time, depending on the monitoring needs. Every specialist is required to disclose their interests before joining, and a detailed declaration of interests form is used to ensure any potential conflict of interest is prevented.

PRACTITIONERS' EXPERIENCES

DRAWING ON EXTERNAL CAPACITY TO COMPLEMENT THE INTERNAL MONITORING TEAM IN INDIA

At Transparency International India our Integrity Pact team itself has strong capacity in project management, communications and fundraising. However, extensive technical expertise is lacking. As such, we set up an Integrity Pact Advisory Council to guide on issues related to Integrity Pacts. The Council consists of members of the chapter and six external members who are experts in their field. Their expertise includes specific-sector expertise as well as expertise on procurement and anti-corruption, in many cases gathered over decades. The Council also bring with them high-level contacts and access to important decision-makers. Monthly meetings and regular email contact supports the main team in relation to reviewing documents and discussing feedback and information coming from monitoring activities. In addition to this Council we have also built a relationship with law colleges and we employ three legal interns to support our work. This is an ongoing relationship, with new interns replacing those who have completed their internship.

MANAGING CAPACITY IN A LARGE CONTRACT IN LATVIA

In the construction of the National Library in Latvia, the technical oversight was awarded to the international consultancy company Hill International (HI). They were responsible for assuring the quality of the construction elements, and the Ministry of Culture would pay the construction bills only after approval from them. HI took an active part in the Integrity Pact reporting and public communications side. With the participation of HI in the process, it became possible for the Integrity Pact monitor to focus on the construction project procedures. We believe that we would have had to withdraw from the Integrity Pact if no qualitative construction oversight had been provided by the contracting authority, as there would have been no affordable way to check the quality of the construction. We believe that an Integrity Pact cannot be realised if no technical monitor is established for a complicated project.

WHO MATTERS FOR INTEGRITY PACTS AND WHY AND HOW DO I ENGAGE THEM?

POSSIBLE STAKEHOLDERS AND THEIR MOTIVATIONS

One of the key elements of an Integrity Pact is stakeholder participation. In other words, to implement an Integrity Pact, different actors – participants in the public procurement process – must agree to take part in it. Having a strong understanding of who the relevant stakeholders are, how they might affect the process, as well as their individual motivations, is essential in order to secure their support in implementing the Integrity Pact or to anticipate certain behaviours. Effectively communicating with stakeholders can be a powerful tool to gain their support and let them know the value of the Integrity Pact. Therefore, understanding who the stakeholders are is an essential early step. The civil society organisation implementing the Integrity Pact will have to identify all of the relevant stakeholders. The following figure identifies the main stakeholders and their relation to the civil society organisation, but there may also be additional stakeholders that will need to be considered.

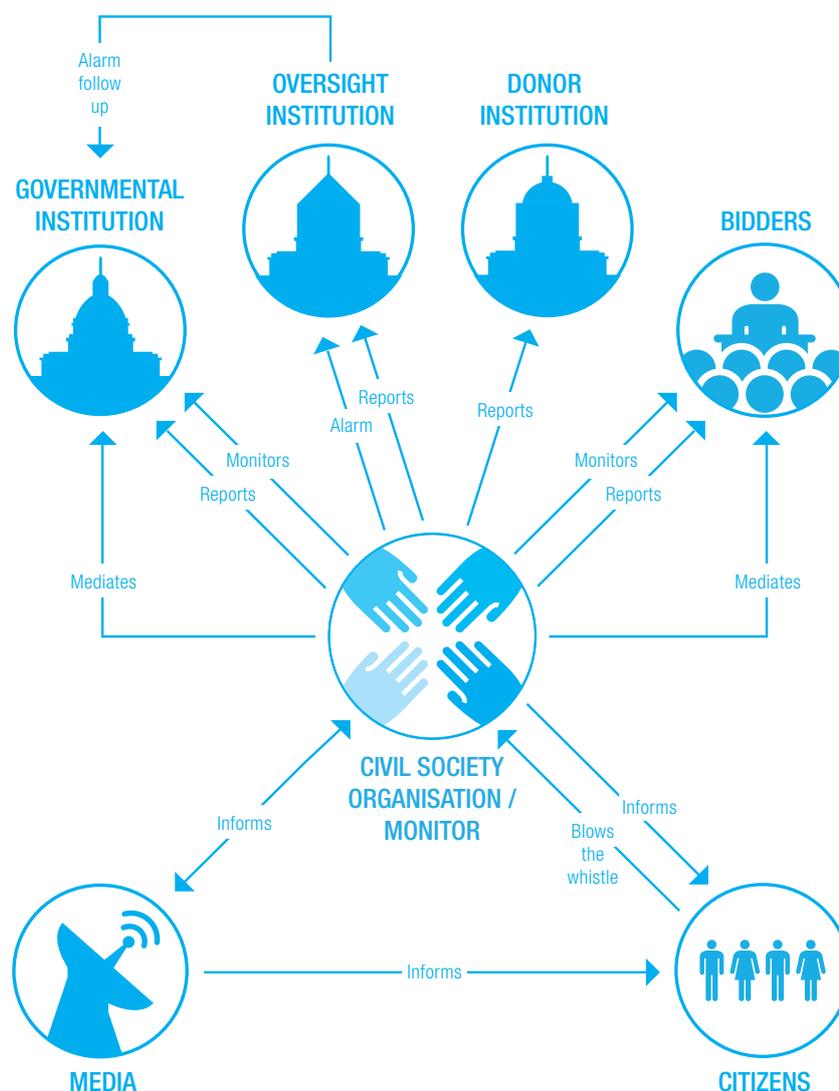


FIGURE 2: STAKEHOLDER RELATIONS

There are, broadly speaking, four main groups of stakeholders that need to support this process:

GOVERNMENT

Government support and understanding of the Integrity Pact is key for its successful implementation. Government refers not only to the authority that is in charge of the public procurement process, but also to other actors and institutions that can have an influence over the decision to implement an Integrity Pact. Buy-in from the government is not always as straightforward as you might expect. Still, there are different ways to approach government, to help them understand the value of the Integrity Pact.¹¹ When identifying the government authorities that will be stakeholders of the Integrity Pact it can help to keep the following points in mind:

- Some of the actors within governments that can, or in some cases, should, buy-in to the Integrity Pact include the executive leadership, such as the president/prime minister or ministers. The executive can ask or compel the public administration to take on an Integrity Pact for a public project.
- Perhaps the most important actor that should support the application of an Integrity Pact is the government agency responsible for carrying out the project – also known as the contracting authority – as well as the agency responsible for procurement in the country. The implementation of the Integrity Pact requires coordination with these two agencies.
- Other potential key government actors include legislators/parliamentarians who, as members of the oversight body for the executive, can request/compel the executive branch or the public administration to take on an Integrity Pact. In some cases the legislative may exert oversight through a supreme audit Institution. In other cases, the latter might be an independent body.
- In countries where there is an apex anti-corruption body, the civil society organisation should obtain buy-in and strong support from them.

- Do not forget also that the word “government” also includes sub-national and local authorities. Many public procurement processes involve coordination among different levels of government.

PRIVATE SECTOR

When we talk about the private sector we refer to those companies that might be interested in bidding within the procurement process as well as other organisations and related associations that represent groups of companies or a sector, such as chambers of commerce. It will be helpful if these actors are also supportive of the Integrity Pact. In particular, it can be helpful if associations of which the likely bidders are members support the Integrity Pact. They can disseminate the idea to different companies and generate goodwill towards the Integrity Pact. Business associations can also be a channel for explaining the benefits of an Integrity Pact. Where these associations understand the value of the Integrity Pact, they can advocate for the implementation of Integrity Pacts in further projects or, even more, support the constant and systematic implementation of Integrity Pacts.

CIVIL SOCIETY AND CITIZENS

Civil society refers not only to the organisation seeking to implement the Integrity Pact, but also to other civil society organisations that might also need to be supportive of the Pact, either in requesting or demanding that an Integrity Pact is applied to a procurement project, or in providing support in the implementation of the Integrity Pact. Make sure that when identifying civil society groups you also acknowledge local groups and communities that will be affected – positively or negatively – by the project for which the public procurement is taking place. Seeking ways to actively engage these individuals and to get them to take part in holding government to account should be at the core of your Integrity Pact.

¹¹ Transparency International's Implementation Guide for Integrity Pacts in Public Procurement has a specific section on how to get government buy-in: Transparency International (2014), page 46.

OTHER STAKEHOLDERS

There might be other stakeholders that will not be directly involved in the implementation of the Integrity Pact but that could follow it closely. One of these is clearly the media. Depending on the characteristics of the project, the media might be investigating it and informing people about it. In such cases, where there is a strong media presence surrounding the project, it will be important to provide the media with information about the value of implementing an Integrity Pact. Media attention may be the means to ensuring the public procurement procedure is in accordance with the public interest and takes place under the correct legal conditions.

Supranational and international institutions (such as the European Union (EU) or the World Bank) can also be an important actor advocating for an Integrity Pact. These institutions can advocate for an Integrity Pact or even request one if they are financing, in full or in part, the public project in question. In addition, these institutions also play an important role in providing advice for reform or improvements in governance and public administration processes. If their support is given, there is the possibility that funds to implement the Integrity Pact will be provided by them or that they will help to bring potential donors to the table.

Some **professional associations**, such as a national academy of engineering or sectoral advocacy organisations, might be key actors in advocating for the application or implementation of an Integrity Pact. In some cases, specific expertise might be required to implement an Integrity Pact, in the form of a public procurement expert or a technical expert (such as a construction engineer). Having support from professional associations might make the difference in regard to the level and type of access available to these specialists.

STAKEHOLDER ANALYSIS

In order to determine who must be on board before the implementation of an Integrity Pact, and how precisely to engage them, it is recommended that you perform a stakeholder analysis exercise. This entails not only identifying who the stakeholder are, but also

understanding their motives, the degree of their connection to or support for what you are doing and the existing relationships among them. In addition to the information that the organisation may already possess because of its experience in the public procurement field, it is suggested that exhaustive research should be conducted, including interviews or meetings with stakeholders, media monitoring and consultations with other civil society organisations that have implemented Integrity Pacts. Also take this opportunity to review the stakeholders' knowledge about public procurement integrity and possible capacity needs they might have to engage further in the process. Many stakeholder analysis and mapping methodologies have been used and developed in the context of policy reform. However, the principles and tools used are adaptable for mapping relevant stakeholders who may participate productively in an Integrity Pact. There are several sources that can provide guidance on the different ways to perform a stakeholder analysis: for example, *Guidelines for Conducting a Stakeholder Analysis*, prepared by Kammi Schmeer,¹² and the *Stakeholder Analysis: Background Reading* resource page produced by the World Bank.¹³

WAYS TO GET BUY-IN: ADVOCACY

Once you know who your stakeholders are, and have a better picture of their motivations, you may find that, in many cases, there is no political will or buy-in from them. Some of the most common advocacy activities we have used to build this buy-in include awareness-raising, media work, demonstrating solutions and creating channels through which people can act.¹⁴

Raising awareness about an issue is a gradual process that seeks to provide information and to share it with a target audience. This might involve producing a publication or taking part in meetings and debates.

Working with the media is a key part of advocacy as it is perhaps one of the most effective ways to influence public opinion. Providing the media with information and easy-to-read research results, or true stories to be displayed through print or audio-visual media, is a great way to disperse your message and raise awareness about your issue.

¹² Available at: <http://www.who.int/management/partnerships/overall/GuidelinesConductingStakeholderAnalysis.pdf>.

¹³ Available at: <http://www1.worldbank.org/publicsector/anticorrupt/PoliticalEconomy/stakeholderanalysis.htm> and <http://www1.worldbank.org/publicsector/anticorrupt/PoliticalEconomy/stakeholderreading.htm>.

¹⁴ Save the Children (2000), *Working for Change in Education: A handbook for planning advocacy*. Save the Children, London, UK. <https://www.savethechildren.org.uk/sites/default/files/docs/WORKING-FOR-CHANGE-IN-EDUCATION.pdf>.

Demonstrating solutions can be a powerful approach to persuading decision-makers. It is important to provide sufficient evidence that a solution can work and that it can be applied to the national/local context. Previous experiences of Integrity Pacts can be a good starting point for demonstrating that Integrity Pacts can work.¹⁵

Creating ways for people to act is another powerful route for performing advocacy. Different stakeholders can be encouraged to join your cause once they know how the issues affect them directly and are given ways in which they can act. Some examples of activities that promote Integrity Pacts can be mobilising communities affected by an upcoming public project or engaging in supporting business associations.

The choice of activity should be guided by the opportunities available, the target, the political context and the decision-making process. The approach you choose may take the form of a collaborative approach, which can include working with legislators or other non-governmental organisations, or it may be a persuasive approach that consists of providing evidence about the value and benefits of implementing an Integrity Pact. Confrontational approaches will rarely work as core values of the Integrity Pact are engendering trust and goodwill among the involved parties.

PRACTITIONERS' EXPERIENCES

SHARED EXPERIENCE AMONG STAKEHOLDERS IN HUNGARY

In 2015 the European Commission launched a pilot project for the use of Integrity Pacts in public procurements projects financed from EU Structural and Cohesion Funds. It called for governments and civil society organisations of the Member States to apply to participate in this project. In order to convince the government of the benefits of Integrity Pacts, we at Transparency International Hungary organised a conference, inviting representatives of local governments, companies and experts who had already participated in Integrity Pact projects to talk about their experiences. We also specifically targeted the government officials we wanted to convince. This was a successful approach as in the end the Hungarian government submitted applications for four projects.

¹⁵ Transparency International (2015), Case for the Public Sector to engage in Integrity Pacts. Forthcoming.

HOW DO I SELECT A PROJECT FOR AN INTEGRITY PACT?

The chart below sets out the selection process step-by-step. It provides an easy overview of the steps, which are described in more detail below.

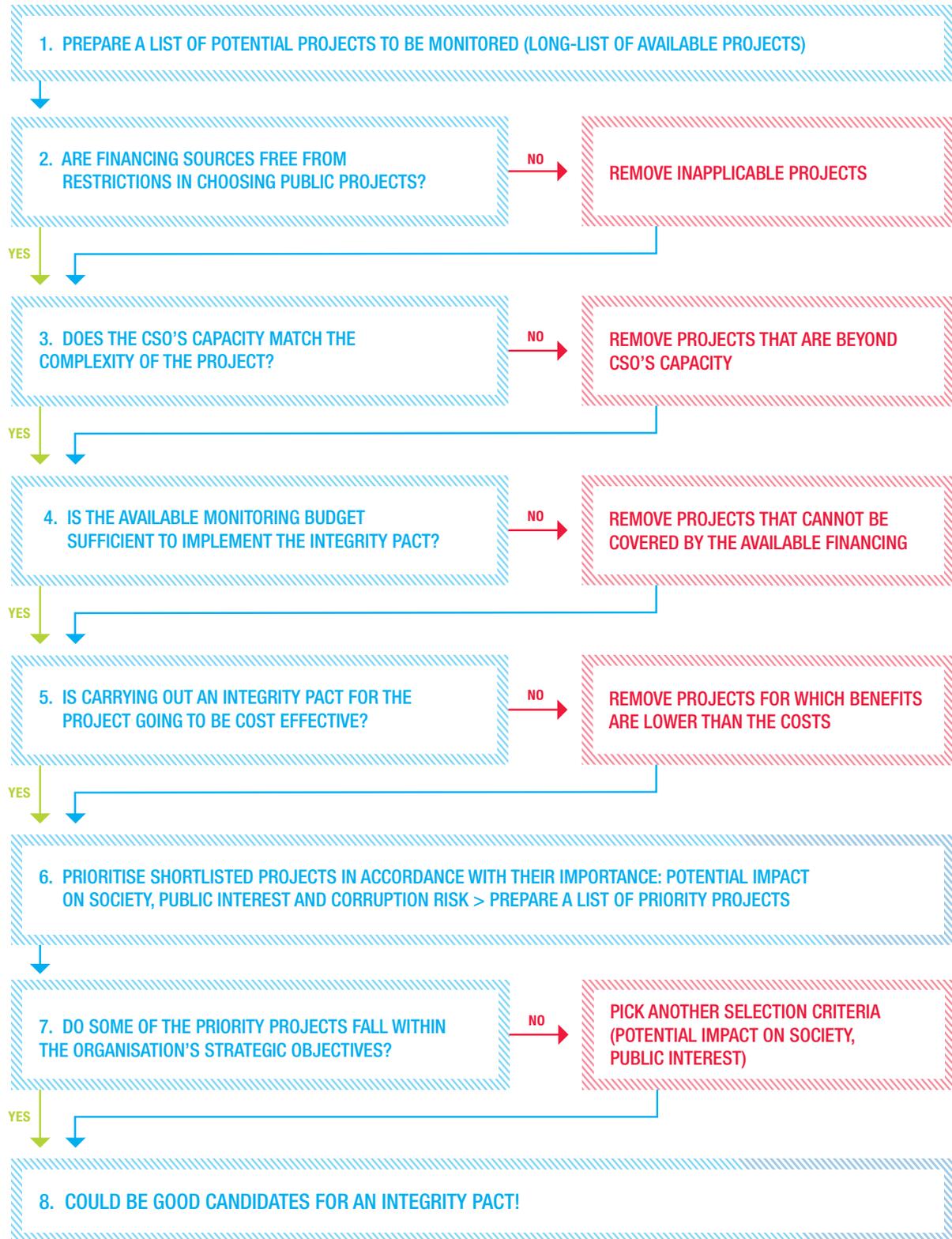


FIGURE 3: DECISION TREE

Selecting a project that is suitable for an Integrity Pact can be challenging. In making the selection, consideration should be given both to the external environment, such as the legal framework, budgetary cycle, and stakeholder support, and internal considerations such as the capacity of the organisation carrying out the Integrity Pact (see adjoining sections). In addition, there are many variables to be considered when determining whether a public project is suitable for Integrity Pact implementation and when making a choice between several projects. There is no clear formula to evaluate whether a specific project would benefit from an Integrity Pact. However, from experience, we have identified a few things that might help. The paragraphs set out below provide general guidance for this process.

SIZE OF THE PUBLIC PROJECT BUDGET

It is generally considered that larger budget projects might be more suitable for Integrity Pact implementation, as these are the ones that have the largest impact on the citizens, gather media attention, and have greater potential for cost-effectiveness in the implementation. On the other hand, higher value projects can also be more complex, requiring a higher level of expertise, or a larger number of staff to coordinate and monitor the project. The budget of a public project should not be used as the sole ground for project selection; however, it should be used as an indication of the project's importance and as a ground for determining the Integrity Pact's cost-effectiveness. Some questions to be considered include:

- What is the project budget? Does the budget reflect the importance of the project? Does it indicate higher corruption potential?
- What are the expected monitoring costs? What is the ratio of expected monitoring costs compared to the total project budget?

COMPLEXITY OF THE PROJECT

The project's complexity needs to be considered from several different angles. On the one hand, projects that are of higher complexity might benefit from an Integrity Pact, especially in terms of ensuring better accountability towards citizens, minimising the risk of corruption and

reducing the occurrence of misinterpretation of complex information by bidders. On the other hand, projects that are of high complexity might be risky in terms of a civil society organisation's potential to monitor them. Additionally, there are two types of complexity: the project may be complex – such as in the case of a difficult engineering project – or the procurement process may be complex. Typically, complex projects have complex procurement processes. It is important to keep in mind these two levels of complexity and to ensure that they are taken into consideration. Some questions to be considered include:

- Is it likely that the project's complexity will lead to higher corruption risk? Does the project's complexity make mis-management more likely? Is there a risk of misinterpreting project-related information when communicating it to the general public? Has there been a history of corruption involving similar projects?
- Does the civil society organisation have sufficient expertise to monitor a project of such complexity? Are there risks that the monitoring requirements might be greater than the civil society organisation's capacity because of the project's complexity?

PUBLIC INTEREST

As already mentioned above, the public interest is one of the key variables when determining a project's suitability for Integrity Pact implementation. This is important for a number of reasons. Firstly, an Integrity Pact is an activity that takes time, effort and resources; hence, it is important that the selected Integrity Pact will have significant benefits to society or a specific community, in order to justify the investment. Secondly, support from the media and/or citizens is highly desirable as part of the Integrity Pact's role of improving a project's accountability towards the wider public. In this regard, it can be easier to capture the media's attention and mobilise citizens if the project has a higher level of public interest. Some questions to be considered include:

- Will the project affect a significant group of citizens in a region? Is there a high level of public interest in the project?

- Is intense media attention expected? Do the media usually cover such projects objectively? What is the risk of information being twisted and misinterpreted?
- Is there a requirement from any creditor of the project or proposed by a private sector partner to use an Integrity Pact for the project?

CLARITY OF THE PROJECT AND SPECIFICS

Even when a project seems to fit nicely within the previous Integrity Pact selection criteria, it is highly advisable that the civil society organisation looks more deeply into its specifics before making a final decision. Several key factors to be considered are:

- Projects with an unclear scope and timeframe can present high risks as regards the Integrity Pact's effectiveness and the measurability of its results, as well as a reputational risk for the civil society organisation.
- Projects involving authorities or contracting partners that have questionable reputations may present a risk that the Integrity Pact will be used for window-dressing only, instead of in the spirit of transparency

Some questions to be considered include:

- Is the timeframe of the public procurement project clear?
- Is it possible to clearly define the scope of the Integrity Pact to be implemented?
- What is the reputation of the contracting partner?
- Are there any red flags that might suggest attempts at window-dressing?

INTEGRITY PACT RESOURCING

Access to independent financing is crucial for Integrity Pact implementation, and efforts to secure it should be made as early as possible. It is important also to carefully consider the type and sources of financing as potential reputational risks or limitations could arise. For example, in the case of independent donor financing, the donor might have

requirements regarding the project that will be chosen. It is also important to verify that the financial resources match the public project stages, to ensure financing is available during the defined stages of the public project to apply an Integrity Pact.

- Does the civil society organisation have access to sufficient financing to implement the Integrity Pact? Is the financing sufficient to ensure good quality monitoring? Is it enough to cover the full period of the Integrity Pact?
- What is the type of financing being considered? Is the financing independent? Are there limitations to the projects to be monitored that arise from the type of financing? Does a reputational risk arise from the financing? Is there a conflict of interest arising from the financing: for example, is the funder a potential bidder in a monitored procurement?
- Is the availability of the financial resources aligned with the life of the Integrity Pact?

CIVIL SOCIETY ORGANISATION'S STRATEGIC GOALS

When a civil society organisation is leading and managing an Integrity Pact, it should consider its own strategic goals and ensure that they are aligned with implementing an Integrity Pact and the public project to be monitored. This is important because the Integrity Pact can be complementary to achieving other specific goals of the organisation, such as increasing health services in a community, or the broader goal of improving the country's procurement system. In sum, implementing an Integrity Pact in an area that is considered to be a priority by the organisation can, on the one hand, mean benefitting from expertise that has already been built, and, on the other, can feed into the general work of the organisation. Some questions to be considered include:

- Does the project fall within the orbit of the civil society organisation's strategic goals?
- What outputs from the Integrity Pact will help achieve other organisational goals?

- How can the Integrity Pact's short-term outcomes contribute to longer term objectives?

COST–BENEFIT OF IMPLEMENTATION

A cost–benefit analysis is a complex issue in most circumstances and Integrity Pacts are no exception. However, the cost–benefit relationship is an important issue to address (even if we cannot provide a definitive answer). A cost–benefit analysis can be performed based on both tangible and non-tangible costs and benefits, or in most cases both. The tangible costs are the financial resources utilised to implement the Integrity Pact. There are no clear criteria for determining the cost-effectiveness of Integrity Pacts: it is generally considered that the costs should not be unreasonable and that the benefits should be aligned with the size, complexity and the overall needs of the project. The non-tangible benefits should also be considered, such as strategic engagement for the civil society organisation, reputation benefits for participants, increased trust between stakeholders (government, businesses and civil society) or on the part of citizens. In some cases, the non-tangible benefits might play a decisive role, especially in cases where the costs are relatively high.

PRACTITIONERS' EXPERIENCES

AGREEING CRITERIA FOR PROJECT SELECTION WITH THE GOVERNMENT IN ADVANCE

In Thailand the Anti-Corruption Organisation of Thailand, in cooperation with the Thai Institute of Directors, first negotiated with the Ministry of Transportation to agree on criteria for selection of public procurement projects for Integrity Pact implementation. Based on these agreed criteria, the government offered two projects in the transport sector to the Anti-Corruption Organisation. Taking this approach helped to ensure that the Organisation could not be accused of having a conflict of interest in terms of the project they selected, and thereby increased public trust that they (as the monitor) would engage independently on both projects.

REJECTING A PROJECT IN BULGARIA

When we began our work on Integrity Pacts at Transparency International Bulgaria, we undertook extensive outreach activities to generate interest in adopting the tool. We were approached on numerous occasions by contracting authorities that expressed an interest in adopting the tool for public procurement projects they were planning to launch. In each case, we took stock of the situation, noting a number of factors, including: a number of ongoing corruption cases concerning that particular entity, the absence of a real commitment to the tool and a concern that it would be used as window-dressing, and the absence of funding leading to the requirement for the municipality to fund the monitor (thereby reducing the monitor's independence from the outset). On this basis, we decided that there were simply too many red flags to consider getting involved in these projects.

PRACTITIONERS' EXPERIENCES

MAINSTREAMING RISK ASSESSMENT IN SELECTION CRITERIA IN RWANDA

In selecting a project for monitoring through an Integrity Pact, at Transparency International Rwanda we follow a number of steps to ensure that risks are mitigated or reduced before selection. As we focus on projects in the infrastructure sector run by local entities, our representatives participate in the very early stages of the annual procurement planning process at the district level. During this process we select two projects to monitor, based on two main criteria: size of budget – we focus on larger projects – and the number of beneficiaries that will potentially benefit from the project.

STAGES OF PLANNING PHASE

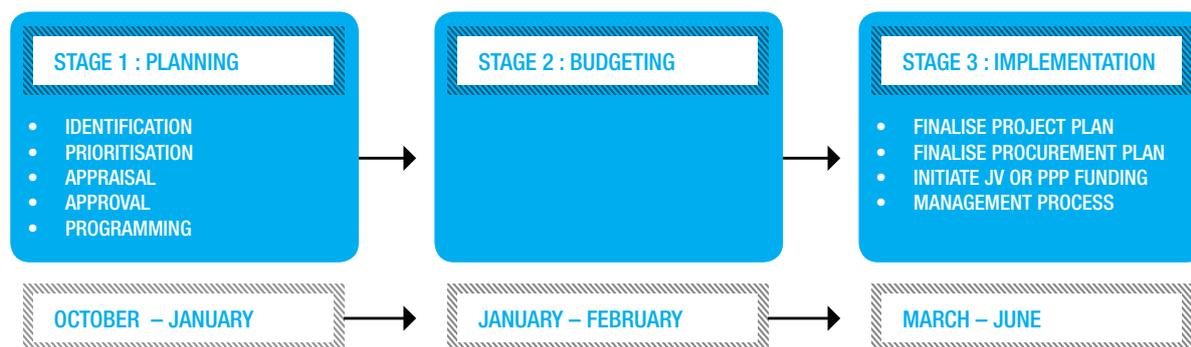


FIGURE 4: STAGES OF ENGAGEMENT OF TRANSPARENCY INTERNATIONAL RWANDA TO ENSURE SELECTION OF APPROPRIATE PROJECT.

DEVELOPING A CHECKLIST TO GUIDE PROJECT SELECTION IN GERMANY

Transparency International Germany has made it a rule to wait to be invited to start an Integrity Pact project. Based on our experience over the years we have developed a checklist to guide our decision-making process on whether to take on a project or not. The following criteria guide our decision:

- Is the project manageable?
- Is the budget of the public procurement project manageable?
- Is there clarity in terms of the timeframe of the public procurement project and is that manageable?
- Does the contracting authority have a compliance management system in place?
- Will all parties agree to three agreements: one between the contracting authority and the bidders, one between Transparency International Germany and the contracting authority, and one between the contracting authority and the monitors? Importantly, the monitor's contract with the contracting authority is set up to automatically end if Transparency International leaves the Integrity Pact.
- Is the chapter convinced that the contracting entity is committed to the Integrity Pact?

A photograph of two young women sitting at a desk with laptops. The woman on the left is wearing a black headband with a silver beaded pattern and a black t-shirt. The woman on the right is wearing a blue headband and a white t-shirt with a green collar. They are both smiling and looking towards the camera. The desk is yellow, and there are several cables connected to the laptops. The background is a plain, light-colored wall.

INTEGRITY PACT PREPARATION

WHAT RISKS SHOULD I CONSIDER UPFRONT?

Making the commitment to undertake an Integrity Pact is only the first step. An Integrity Pact does not run itself: it needs careful maintenance throughout. A central pillar of this maintenance is managing risks. Integrity Pact practitioners face a wide range of challenges on a daily basis that can prove very tough to handle, and that can have a negative impact on their reputation, credibility and sustainability if they are not managed carefully. Thus, the early identification of risks and elaboration of a mitigation plan are crucial for successful Integrity Pact implementation. A tentative approach towards risk management as a whole includes the following stages:

1. Early stage considerations: early stage analysis of potential external and internal constraints to Integrity Pact implementation, already explained in detail in “Where do I start?”
2. Preparing risk management plan: identification of specific external and internal factors that might negatively affect the Integrity Pact implementation, along with analysis of the possibility of their occurrence
3. Applying risk management plan: Effective mitigation of risks identified during the preparation phase, including ongoing analysis and securing the necessary resources

This section deals with 2: risk identification and analysis.

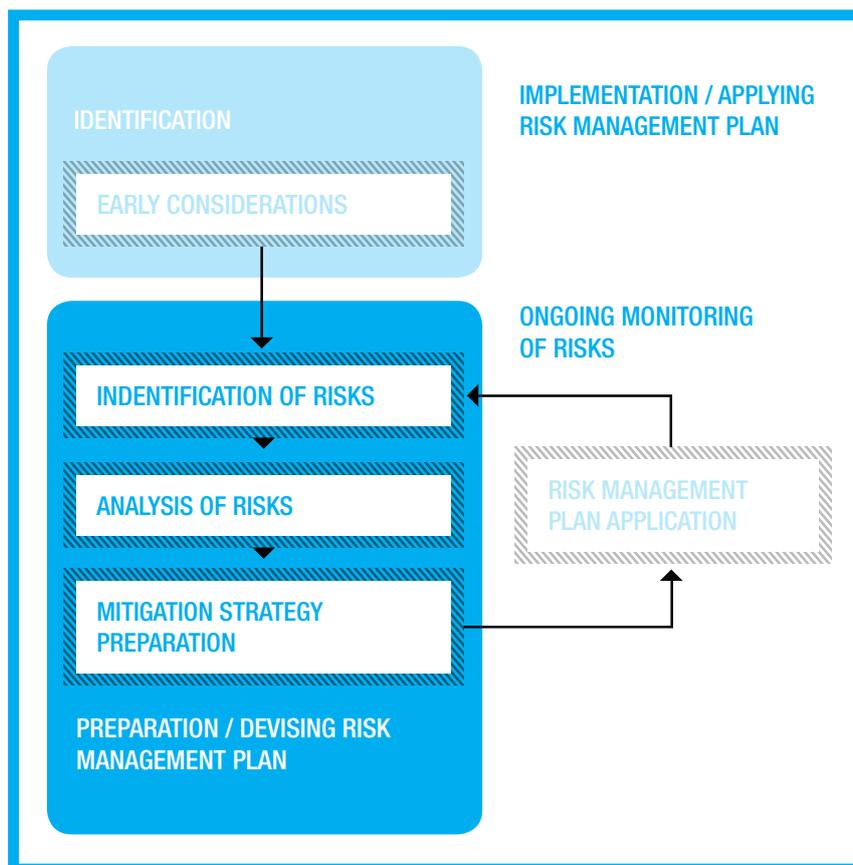


FIGURE 5: RISK MANAGEMENT DURING PREPARATION PHASE

ADVICE

The major risks that can affect the Integrity Pact implementation can be both internal and external to your organisation. Some of the specific risks that have been encountered by Integrity Pact practitioners, together with the ways they have been dealt with to date, are set out below. When deciding how to deal with the specific risks you identify, it will be important to consider the severity of the risk: in other words, how likely is it that the risk will occur and what will the impact of that risk be should it take place?

RISK 1: MISUNDERSTANDING REGARDING, OR MISINTERPRETATION OF, THE INTEGRITY PACT'S OBJECTIVES, SCOPE AND POTENTIAL

The mere fact that a party has signed an Integrity Pact does not necessarily guarantee its integrity across the board. However, the general public might interpret the situation in this way, ignoring the fact that an Integrity Pact is narrowly focused on a specific public procurement project and has a limited short-term effect upon organisations, institutions, etc. In a situation where the reputation of a party to the Integrity Pact suffers due to its engagement in activities that are harmful to its image, their reputation suffers, but also the general public might lose faith in the Integrity Pact as well, and in the civil society organisation that promoted it.

Tentative mitigation plan: To mitigate this, it will be important to clearly communicate the purpose and objectives of the Integrity Pact to all the stakeholders from the outset.

RISK 2: ATTEMPTS TO USE THE INTEGRITY PACT FOR WINDOW-DRESSING

Politicians often recognise the reputational benefits Integrity Pacts can have and this is a major incentive for them to apply the tool. However, in some cases the lack of a commitment towards, and the lack of the political will to observe, the Integrity Pact principles is clearly visible. Politicians can fail to provide access to information and act in a generally obstructive way. In such cases, although an Integrity Pact is in place, it does not lead to the desired

benefits for the public and becomes a form of window-dressing.

Tentative mitigation plan: Develop certain prerequisites for Integrity Pact adoption. Assess the risk of window-dressing at the earliest possible stage. Consider not entering into an Integrity Pact that has a high risk of window-dressing. Consider withdrawal from an Integrity Pact currently being implemented that has a high level of risk of window-dressing.

RISK 3: MISUSING THE INTEGRITY PACT "LABEL"

If Integrity Pacts succeed in becoming a "label" for a clean procurement process, they might easily become a target of attempted misuse. Either politicians or businesses, or both, might decide to set up an "Integrity Pact" of their own and make use of the positive reputation of the Integrity Pact "label", thus gaining benefits without committing to change. Such a form of hijacking of Integrity Pacts by business or government can undermine the reputation of Integrity Pacts in the country.

Tentative mitigation plan: One option is for the civil society organisation to publicly distance itself from the self-styled "Integrity Pact" and again remind the wider public what the standards and principles of a real Integrity Pact are.

RISK 4: DELAYS IN PROJECT IMPLEMENTATION

Delays in project implementation are not easily accommodated by the Integrity Pact. An Integrity Pact is usually planned for a specific timeframe and budget. Any delays in the monitored project can lead to challenges as regards successful Integrity Pact completion and might have consequent effects on a Pact's reputation.

Tentative mitigation plan: Determine risk of delays at the earliest possible stage. Include options for delays in Integrity Pact timeframe. In case delays beyond those anticipated occur, record the reason for them and disclose them to the public.

RISK 5: POLITICAL RISKS

In certain environments an Integrity Pact might become a tool that is used as a pawn in political in-fighting. In many countries, there are severe political divides and regular changes of political leadership. An Integrity Pact can be put in the middle of such a divide and manipulated by the political elites to suit their ends, or simply discarded after a change of government.

Tentative mitigation plan: Active communication to the wider public to ensure objective presentation of all developments surrounding an Integrity Pact. A targeted advocacy campaign to ensure the correct perception of the Integrity Pact, its objectives, scope and principles (including among both ruling and opposition actors).

RISK 6: REPUTATIONAL RISKS

The more successful you are, the more open to attack you can become. Engaging in an Integrity Pact in a high profile public procurement project can easily put a civil society organisation and its reputation in the spotlight, leaving it prone to attacks. If the organisation's house is not fully in order, its "dirty laundry" might be aired in the street. This will not only undermine the work done with regard to the Integrity Pact but also the civil society organisation's broader organisational achievements.

Tentative mitigation plan: Develop strong and transparent internal procedures. Keep the quality of your work high and never compromise your reputation.

RISK 7: CONFLICT OF INTEREST

If a monitor is found to be in a situation where there is a conflict of interest this may easily undermine the whole Integrity Pact. In some cases, it is very difficult to find an independent monitor, and in others it can be hard to get the full picture on whether or not somebody is related to the respective public or private sectors.

Tentative mitigation plan: Develop strong internal procedures regarding conflicts of interest. Keep them transparent and come up with clear rules for their management. Be scrupulous about due diligence before getting an independent body to appoint monitors.

RISK 8: INSUFFICIENCY OF RESOURCES

Failure to mobilise sufficient funds can lead to shortcuts in the Integrity Pact process. In some cases, funding is withdrawn, or costs turn out to be higher than expected. In such circumstances, the civil society organisation might find itself in the very uncomfortable situation of both being

committed to an Integrity Pact, and lacking the sufficient resources to implement it. This can lead to shortcuts being taken, a failure to completely follow the proper processes, and the missing of important red flags. Ultimately, implementing an Integrity Pact without sufficient resources might undermine the reputation of both the civil society organisation and the Integrity Pact model.

When considering the sufficiency of resources, you need to keep in mind not only funding, but also the quality of the required expertise.

Tentative mitigation plan: Be sure to secure necessary funding before initiating an Integrity Pact. Consider clauses that link the Integrity Pact to the availability of financing and/or donor agreement (in cases of donor-funded Integrity Pacts). Ensure access to expertise, as required by project specifics.

The above list is indicative and it is highly advisable for every practitioner preparing an Integrity Pact to develop a full mapping of potential risks in accordance with the environment it faces. The mitigation notes above are just a brief indication of how each of the examples has been dealt with in the past by practitioners with strong Integrity Pact experience. Further information about implementing a risk mitigation strategy is given in "How do I deal with risks during implementation?"

Follow  p.37 to see more.

PRACTITIONERS' EXPERIENCES

INDEPENDENCE OF THE MONITOR IN INDIA

At Transparency International India we decided to advocate for the adoption of Integrity Pacts by the private sector. A few rounds of discussions were held with representatives from the Confederation of Indian Industries. Further discussions were held with individual companies to gauge their interest. Ultimately, however, there was resistance to opening up their systems to an outside agency to monitor. A proposal was made that their own compliance officer would carry out the monitoring activities. On this basis, we decided not to proceed as we felt that the monitor could not be independent, and that the companies were more interested in the reputational gains they could get from engaging in an Integrity Pact rather than displaying a real commitment to all aspects of the Pact.

HOW DO I PREPARE MY ORGANISATION FOR IMPLEMENTING AN INTEGRITY PACT?

Although the most visible part of the Integrity Pact is the monitoring and the outward communication, one of the most important parts of the Integrity Pact is preparing the organisation responsible for managing and coordinating the Pact's implementation.

In addition to bringing together the procurement stakeholders, designing and signing the Integrity Pact document and performing the monitoring, other activities are equally important, such as managing financial and human resources and coordinating between the organisation's management staff, experts, monitors, and government officials.

Generally speaking, an Integrity Pact is comprised of three types of activities: (1) management and coordination of the Integrity Pact, (2) supporting activities for an Integrity Pact, and (3) implementing the Integrity Pact. It is a common misconception that the monitoring is the job of one person: however, it involves a team that includes technical staff and management/administrative staff and supplementary staff. In some cases, some roles overlap; however, it is important to be aware of the different roles. One way to identify the different roles is to divide them into teams:

Management and coordination team: This team is responsible for managing the Integrity Pact project. These responsibilities can include fundraising, management of financial resources and coordinating between different teams. Experience has shown that this can be a very resource-intensive activity, along with the monitoring – especially for complex and long procurement projects.

Support team: the support team supports the management and coordination team in implementing the Integrity Pact in non-technical activities related to the monitoring. These can include communications and advocacy support to implement your dissemination work.

Technical team: this team is responsible for performing the technical tasks relating to the public procurement process. These can include public procurement experts – to perform legal analysis before the start of an Integrity Pact or perform compliance monitoring – and subject matter experts, like engineers, architects or product specialists. The subject matter experts may be needed to provide inputs to, or monitoring of, the project or product to be procured. Technical experts are not the only specialists: community monitors can also be classified within this team.

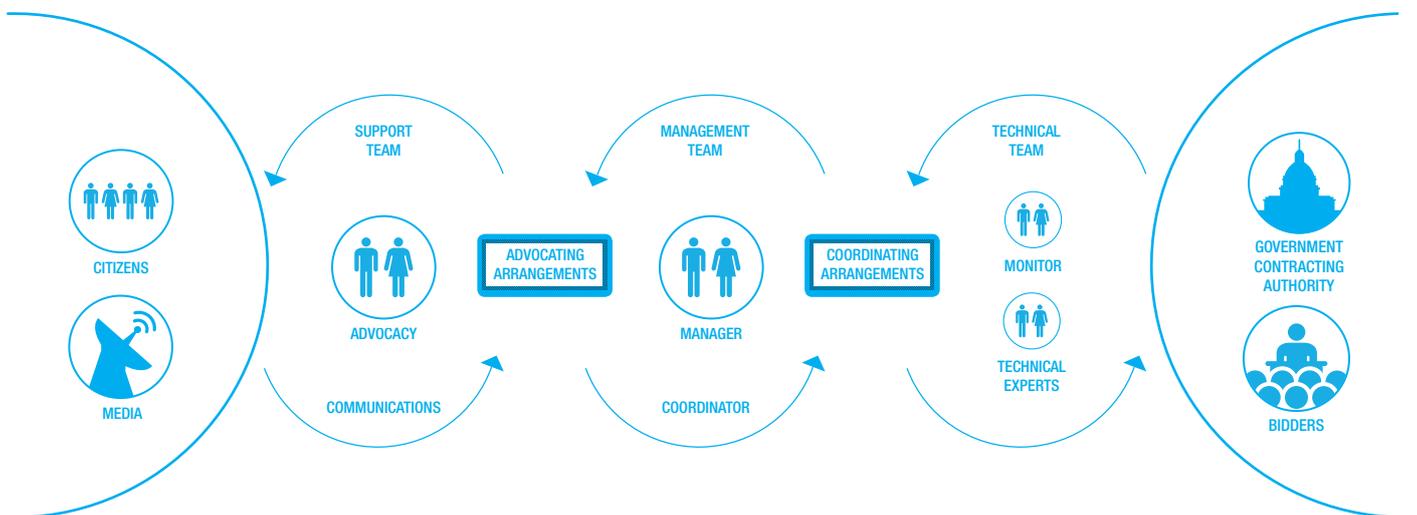


FIGURE 6: TEAMS TO BE MANAGED IN THE IMPLEMENTATION OF AN INTEGRITY PACT

There can be variations in the responsibilities of each team and their composition, depending on the civil society organisation's capacity, the type of Integrity Pact and the financial resources. For example, the project manager might also have procurement expertise and be a monitor or the lead civil society organisation could share management responsibility with a government agency in implementing an Integrity Pact. Whatever the case may be, responsibilities need to be clearly assigned and arrangements need to be in place to ensure a smooth-running Integrity Pact.

ADVICE

Integrity Pacts can be more or less complex and their management arrangements have to match the Integrity Pact complexity. Below we will present some management considerations to keep in mind while implementing your Integrity Pact.

Internal management and communication

One of the main issues to be addressed through the management arrangements is the composition of the internal team that will be in charge of carrying out and following up on the implementation of the Integrity Pact. Depending on the role of the organisation, the teams will have different members, and their composition should address the different needs of the project: technical, administrative, logistical and political. Communication is an important aspect of any Integrity Pact (you can read more about communication-specific recommendations in the communication section); however, in terms of management arrangements, mechanisms and agreements need to be in place to ensure communication between the different teams and the stakeholders is effective.

Human resources management

Your human resources requirements will depend on the requirements for technical expertise, political ability and integrity. The teams to be created may be a mix of consultants, permanent organisation staff and volunteers. It is important that the organisation reviews its professional network, internally and externally, and establishes coordinating mechanisms to deal with the dynamic human resources needs of an Integrity Pact.

As set out earlier, Transparencia Mexicana has a database containing over 100 contacts that comprises a knowledge network of people from different professional backgrounds, from lawyers and economists to civil engineers and actuaries. The database – which is constantly being reviewed, with new contacts added – is an important source for assembling the teams needed to monitor each of the public procurement processes (as social witnesses¹⁶) in Mexico.

Multi-stakeholder coordination

Integrity Pacts are a tool that promotes multi-stakeholder engagement. In an Integrity Pact, stakeholders can multiply quickly, especially if you have civil society partners, multiple monitors, experts, bidders, and government partners. Make sure that coordination mechanisms, including internal and external communication agreements, are in place when implementing an Integrity Pact.

Integrity Pact knowledge management

Despite the fact that Integrity Pacts are very popular, not all of your team members will know and understand

how Integrity Pacts work; this can especially be the case for outsourced staff. Make sure that your staff (internal and external) are properly informed about Integrity Pacts and understand how you have set up the management structure to support the implementation of the project. For example, Transparency International Bulgaria provides training to all of their team members, including internal team members, external monitors and project partners.

Conflict of interest management

A matter of utmost importance is understanding the interests and connections among every participant in the Integrity Pact, as well as ensuring that every member of the team is independent and is not linked to any interested party in the public procurement procedure. Therefore, it is suggested that measures are taken to ensure there is no conflict of interest that may jeopardise the project. One suggestion is to perform due diligence checks on individuals and organisations participating in the project, to look for possible conflicts of interest. In addition, it is possible to obtain a signed interest declaration from each of the team members and the external experts supporting the organisation.

In the case of Transparencia Mexicana team members and external consultants representing the organisation as social witnesses¹⁷ in a public procurement procedure must disclose their interests and the code of ethics of the organisation is shared with every member of the team. In the case of the Anti-Corruption Organisation of Thailand, a screening process was developed for all candidates considered as potential independent observers. All names and profiles are circulated to all key stakeholders as a first step, providing a background check on reputation and criminal records. If no stakeholder raises an objection to them, the persons or organisation go forward to become Integrity Pact monitors.

Confidentiality management

Procurement processes require a high level of confidentiality: this must be respected and managed by the Integrity Pact staff. The management team must ensure that the persons engaged in the process and exposed to confidential information are aware of their obligations and responsibilities, and behave accordingly. The management must ensure that people not exposed to the confidential information are also aware of, and understand, the confidentiality restrictions of the Integrity Pact. Lastly, the project should have a strategy for dealing with confidential information that requires the right balance between publicity and confidentiality. Along with the regular project management arrangements, this must be taken into consideration to ensure your Integrity Pact is successfully implemented.

¹⁶ Social witnesses are a tool designed by Transparencia Mexicana, based on Transparency International's Integrity Pact experience, to monitor public procurement. Since 2004 they have been a part of the Mexican procurement legislation.

¹⁷ See the section Laws and Integrity Pacts: How do they fit together?

WHAT SHOULD I CONSIDER IN REGARD TO FINANCING THE INTEGRITY PACT?

One of the most common questions asked about an Integrity Pact is how much it costs. In order to implement an Integrity Pact, adequate financial resources are required. However, other resources – such as time, and human and political capital – must also be taken into consideration. The availability of these resources is a key factor for the success of the Integrity Pact.

There is no predefined formula for calculating these costs. The costs of an Integrity Pact vary depending on the conditions and characteristics of the public procurement procedure. Estimating a budget for the implementation of an Integrity Pact must take into consideration factors such as the characteristics and complexity of the project, the political context of the country, and the initiating organisations' existing capacity.

When starting to prepare an Integrity Pact – even before drafting a budget – it is necessary to review which organisational resources are already available and which are missing. Once the resources have been identified, the fact that some of them are missing is completely normal, and this should not be considered sufficient reason for concluding that the Integrity Pact cannot be implemented. Instead, it is time to secure those resources!

Our recommendation is that you set up your budget not by following a rule, but rather by ensuring that the resources are sufficient to implement the project properly. The Integrity Pact Implementation Guide provides a suggestion of budget items that an organisation might consider while developing a budget.¹⁸ This includes:

- Human resources – including management, communication and support staff for the implementing organisation.
- Outsourced technical expertise – external consultants, other than the monitor. Depending on the type of project you are monitoring, you might need a legal

advisor, thematic experts and someone with sufficient Integrity Pact knowledge to guide them.

- Logistical costs of activities and public events – such as public hearings, training sessions, etc.
- Communications – Printing and publication of reports, press conferences, and creating and maintaining a web-site. If you wish to popularise the Integrity Pact, you might also need financial resources for events campaigns or information kits.
- Administrative and fixed costs – including office rent, supplies, etc.
- Monitor fees and expenses – these include the wages of the monitor and any other fixed costs.
- Travel costs – remember that monitoring projects in cities outside your own might require travel costs.

WAYS OF FINANCING INTEGRITY PACTS

Sources of funding for an Integrity Pact can vary, from a government authority's own resources, through to fees paid by bidders or state funds, or from donors or the public project's financiers. Each of these sources of finance has implications and peculiarities that are relevant when you are drafting your budget.

In cases where an Integrity Pact is institutionalised, such as in Mexico, the monitor's fees may be fixed and established in regulations. In addition, there will be minimal or no coordinating costs since most of these costs will be borne by the public institutions in charge of coordinating the Integrity Pact. This has some important implications for the civil society organisation's budgeting. For example, it can constrain the size of the team that will be in charge of implementing the Integrity Pact. This can affect the ability of the civil society organisation to achieve economies

¹⁸ Transparency International (2014), page 48.

of scale with broader organisational activities and goals related to reducing corruption in public procurement. On the other hand, the organisation can focus on monitoring rather than management. This is the case at *Transparencia Mexicana*.

Integrity Pacts can be financed as part of donor projects to improve anti-corruption efforts in procurement. In countries such as Rwanda, where a large percentage of public funds come from external sources, bilateral donors have an added interest in supporting Integrity Pacts. Integrity Pacts that are financed through broader projects on integrity in public procurement allow the civil society organisation to create a broader programme, increase flexibility at the time of selecting a public project, and innovate or involve different stakeholders in the Integrity Pact. An example is *Transparency International Rwanda*, which financed their Integrity Pact through funding from the *Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)*. This funding covers both the management and coordination costs of the project, as well as the monitoring costs. This model of financing has other advantages, including the flexibility on the part of the civil society organisation to pick the most appropriate procurement project, as well as the most appropriate stage of the procurement process.

Another donor financing example is a case in which either a donor or a financier is looking to propose an Integrity Pact for a specific procurement process, or a civil society organisation has identified a specific procurement process it wants to monitor. The disadvantage of this approach is that you have to match your priorities and the donor financier priorities when it becomes time to decide which project to pick. In addition, it can be difficult to match the public procurement stage and the project financing and planning cycle. This might be reflected in delays in starting the project, and setting up the management and monitoring team, if they are not already established. Although it is possible to implement such projects successfully, as in the case of *Transparency International Bulgaria*, this form of financing provides less flexibility than projects that do not suggest or prescribe a public procurement project to finance.

TIPS TO KEEP IN MIND WHILE BUDGETING FOR AN INTEGRITY PACT

Here are our top 10 tips for budgeting an Integrity Pact:

1. Budget for risk management – fighting corruption is a risky business, so make sure you budget resources to manage the risks.

Follow  p.37 for how to manage the risks related to Integrity Pacts.

2. Budget project management – an Integrity Pact does not only involve monitoring: it is a project on its own and needs to be managed beyond the monitoring activities.
3. Budget for a contingency reserve (if possible) – public procurement projects are a dynamic process and things may change along the way, so, if possible, allocate resources for contingencies. These funds are especially useful when things take a wrong turn during the procurement process (for example) and funds are needed to cover court costs.
4. Align your budgeting with the stage of the procurement project you are going to monitor – An Integrity Pact can be started at different points during the procurement project (the sooner, the better!)¹⁹ so ensure that your budget covers all possible stages. Conversely, if your budget is limited, make sure you choose the key stages of the procurement project in question.
5. Costs can begin before the Integrity Pact is signed – human resources costs can arise even before any of the monitoring begins: for example, while performing advocacy or while negotiating and drafting the Integrity Pact and obtaining legal input.
6. International monitors or experts can become expensive – make sure you have properly mapped your sources of expertise and you know their costs.
7. Pick your project first – if possible, try to pick the procurement project that will be monitored before developing your detailed budget. Different procurement projects can have very different costs.
8. Budget for information/data management systems – you may want to set up a platform to capture the results of the monitoring data and other internal communication needs.
9. Feedback from monitors can involve costs – monitoring during an Integrity Pact is not only about being vigilant and reviewing documents, it can also involve providing feedback, holding meetings, and mediating between parties in conflict.
10. Monitoring and evaluating the Integrity Pact project – in order to learn from your Integrity Pact you need to monitor your project: this will help learning within the organisation and will contribute to an improved understanding of how Integrity Pacts achieve their goals.

¹⁹ It is always recommended to start budgeting at the soonest possible moment – and no later than before the bidding process begins.

HOW DO I PREPARE TO COMMUNICATE?

Communication is very important in the process of implementing an Integrity Pact. Communicating can start before the implementation of the Integrity Pact itself. The most successful Integrity Pact experiences are achieved by those who manage to communicate effectively what happened throughout the process, and not just the final outcome. As such, it is worth preparing a communication strategy that can anticipate different scenarios and that can guide the organisation's team during the implementation of the Integrity Pact. The basics of a communication strategy will take into careful consideration what to communicate, how to communicate, who to communicate with and when to communicate. The strategy should also be tailored to the conditions and characteristics of the procurement project.

As set out in the early part of this material, the Integrity Pact can be divided into four phases: the identification phase, the preparation phase, the implementation phase and the evaluation phase. Each of these stages will involve different communication activities, as shown in the figure below. This section will focus on providing an introduction to communication needs during preparation.

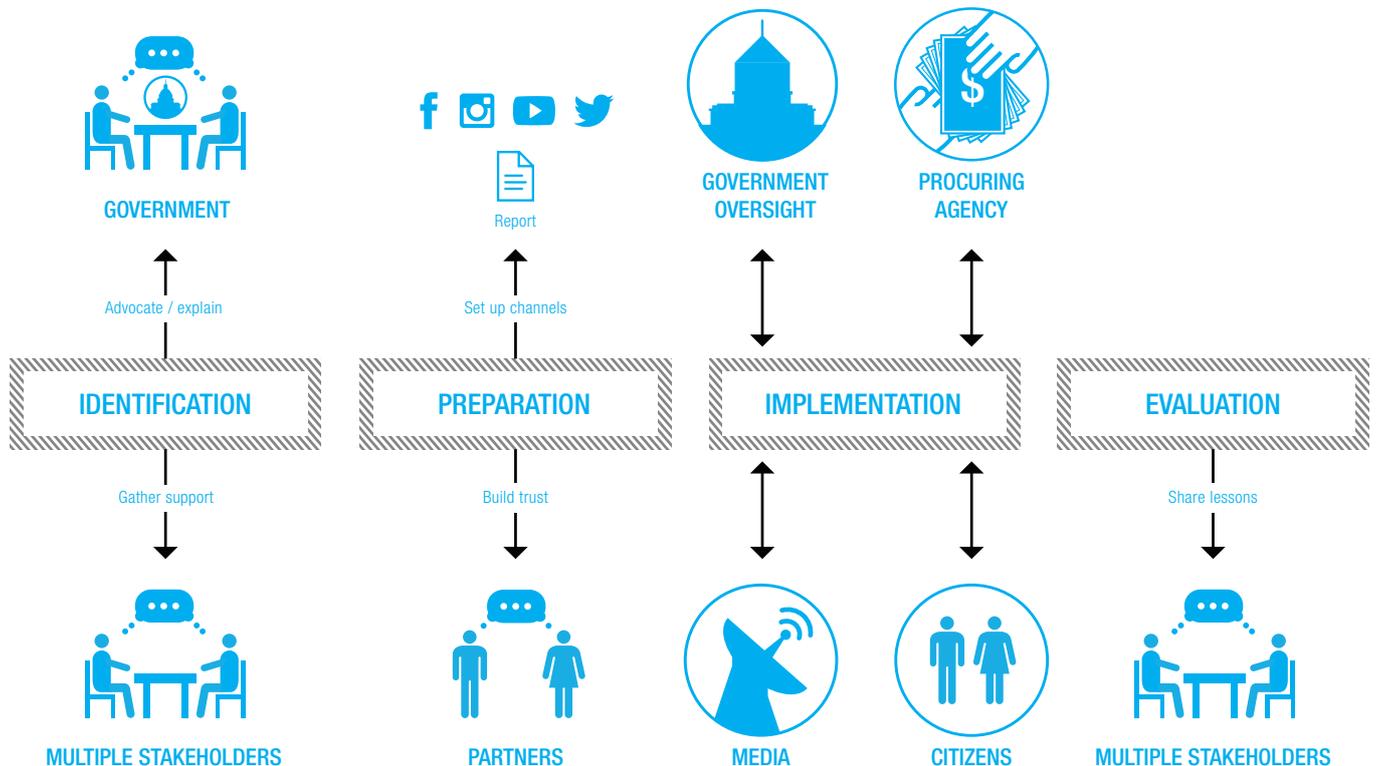


FIGURE 7: EXAMPLES OF COMMUNICATION ACTIVITIES DURING THE INTEGRITY PACT PHASES

In the preparation phase of the project, communication has basically two aims:

1. building trust among every party involved; and
2. establishing the channels through which you will communicate during the implementation phase.

For the former, it is necessary to clearly identify the different stakeholders (from government agencies to beneficiaries), and the stages and key moments of the procurement process. For the latter, you will need to assess your available resources and tools for communicating. In this regard, the significance of the various information technology tools and of the role of social media should be noted as these considerations will provide a solid basis for planning the organisation's communication strategy. Remember to share the strategy with all of your team and other relevant partners! You may even choose to go down the route of developing it with them.

ADVICE

The following paragraphs provide different alternatives to be considered when communicating with each of the main stakeholders at this early stage.

Communicating with government agencies

During the implementation phase of an Integrity Pact there might be a number of different government agencies to communicate with. The main agency will be the contracting authority, which is the legal entity in charge of the procurement procedure. However, other bodies and agencies might be involved, such as controller bodies or supreme audit institutions. The legal mandate of each relevant agency should be understood and taken into consideration in deciding what to communicate and when. In those cases where the primary contact with government will be the contracting authority, a kick-off meeting can be organised. At this meeting, you may want to explain what an Integrity Pact is and how it operates, and you might even organise a seminar or a workshop on the topic. At the same time, you can use the meeting as an opportunity to ask the contracting authority to make a presentation and further explain the public procurement project to you, to provide you with additional information about the planned

timeline, activities and also the technical aspects of the project.

- When approaching the contracting authority, be prepared to answer the most frequently asked questions about Integrity Pacts, such as:
- Will the Integrity Pact cause delays in the project implementation?
- How can a government agency ensure there is no conflict of interest with the monitor?
- What information sources should each party disclose and in what formats?
- Is there a timeline for disclosure?
- What is the consequence of failing to disclose information?
- Who pays the monitor and how can their independence be trusted?

A useful exercise is to make a list of possible questions to be asked and to prepare answers for them before such meetings take place. You can find answers to these questions in other sections of this document and in Transparency International's publication, *Integrity Pacts in Public Procurement: An Implementation Guide*. After establishing contact with the government agencies involved in the procurement procedure, make sure to establish clear communication channels. This will help to avoid misinterpretations coming from other sources of information, such as the media, and it will contribute to building trust among the government agencies and your organisation. Taking into consideration different variables, the organisation can assess if certain communications – such as public declarations – should be shared with the agency before they are made public.

The importance of physical meetings can never be underestimated, for keeping in contact with the Integrity Pact participants (government agencies or bidders); however, do not forget about the use of various information technology tools to maintain contact with the main

participants – for example, using Skype for meetings, or using file-sharing tools during the process of drafting documents. However, when using information technology tools remember to keep security and confidentiality issues in mind as some documents and decisions are confidential and time-sensitive!

Communicating with the private sector

In the preparation phase you will certainly not yet know all the potential bidder companies; however, it is important that the sector itself, or those stakeholder organisations that might be interested in the public procurement, are aware of the existence of the Integrity Pact project. An obvious choice of body to communicate with in this regard can be the chamber of commerce, or other sector-specific chambers. This information – the existence of the Integrity Pact project in the given public procurement – may increase a business' willingness to participate in the process by submitting a bid and may strengthen the trust in the integrity of the given public procurement procedure.

Communicating with the media

When planning your communication strategy, the media is a key element that will need to be addressed. In certain cases the media can be an efficient vehicle for disseminating the activities or the results of the Integrity Pact to the public. In other cases, the media may be pursuing different objectives to those related to the Integrity Pact and they may not consider it relevant to publish information regarding the Integrity Pact, during its implementation or after it has concluded. In any case, it is important that the organisation assesses the media environment and identifies which organisations might be interested in covering the implementation of the Integrity Pact.

Apart from the traditional media, investigative journalists, specialised journals or publications and non-traditional media – such as blogs and the digital press – can be included in the communication strategy. It can be useful to establish contact with news editors and to be able to provide information that clarifies any possible misinterpretation about the Integrity Pact and the procurement process being monitored. However, depending on the project it might be best to wait until a communications plan has been agreed to amongst all the parties involved in the Integrity Pact. Inadvertent communication might undermine the trust between the participating parties and this will not help the process of drafting and signing the Integrity Pact.

Communicating with beneficiaries, citizens and civil society organisations

At the centre of any procurement process must be the citizens, and specifically those that are the direct beneficiaries of the procurement procedure.

The procurement might be for an infrastructure project bringing electricity to certain communities, or it might relate to the purchase of medicines for a national social programme. Whatever the nature of the process, it is important to identify who is the final beneficiary of the service or goods to be provided. Once you have identified the group or groups of beneficiaries, try to also identify their main sources of information. These sources can range from community radio to social media and mobile technology. The communication strategy should include specific actions to distribute information targeted to each of these sources. Messages to citizens and direct beneficiaries need to be easy to understand. Social media can be an effective channel for getting in touch with these groups. When it is time to communicate with the broader public on the Integrity Pact, you may wish to call on the technical experts of the project to advise you about what information should be communicated. Informing beneficiaries and citizens can help build trust between the beneficiaries and the authorities.

Communicating with donors

In those cases where the Integrity Pact may be, or is being, funded by a third party, such as a donor, it is important to prepare a strategy or policy to inform them about the evolution of the project independently of the normal project reporting requirements. Those parties that may consider becoming a participant in the Integrity Pact – for example, representatives of the donor – may also participate in the first kick-off meeting with the contracting authority.

Communicating within your own organisation

It may sound obvious but it is sometimes forgotten that your own board and other colleagues must be part of your communication strategy. In many cases, your colleagues might be approached by different stakeholders or the media and they might not have precise information about the project. As they are part of the institution, what is being said by them may have repercussions for the implementation of an Integrity Pact. There is no single strategy that offers the best way to communicate with your team. Nevertheless, it is recommended that you establish specific communication policies (such as establishing a media contact person) and provide project updates that are shared with your colleagues. Also, do not forget to publish relevant information on your organisation's website!

HOW DO I PREPARE THE INTEGRITY PACT AGREEMENTS?

Two documents that regulate the relationships of parties to an Integrity Pact lie at the heart of the Integrity Pact process: the Integrity Pact document, and the monitoring agreement.

The Integrity Pact document governs the relationship between the contracting authority and bidders. The essential elements of the Integrity Pact include articles on the rights and responsibilities of the parties, sanctions, a monitoring system, stakeholder participation, dispute resolution, and in some cases whistleblower protection and information disclosure.²⁰

The monitoring agreement concluded between the monitor and the contracting authority or between the monitor and the leading non-governmental organisation sets out the rights and duties and terms of engagement of the independent monitor. The essential elements include setting out the scope and coverage of the monitoring, duties and activities of the monitor, establishing the powers of the monitor, and other general contractual clauses.²¹

During our work to date on implementing Integrity Pacts, we have learned a number of lessons which you may find useful in adapting this general guidance to your own context.

ADVICE

Borrowing from others

There are a few Integrity Pact and monitoring templates that you can look at to gain inspiration for the drafting of your own. Examples include integrity pacts from:

- Transparency International Germany²²
- Transparency International Bulgaria (at <http://integrity.transparency.bg/en/integrity-pact/>)
- Transparency International India (at http://www.indiacgny.org/pdf/tender_integrity_pact.pdf)
- And a draft monitoring agreement²³

Should you choose to draw on these models, you will still need to customise the template according to the particular legal framework you are operating under.

For more suggestions on how to approach this see  p.8

Keeping up to date

If you have previously adapted a Integrity Pact or monitoring template or built your own and wish to apply it to a new project, you will need to individualise your template in terms of subject matter, participant parties and so on.

If some time has passed since you last used the template, you may also want to check for changes in the legal context – have there been any amendments to key legislation or regulations that require updates to the clauses of the agreement?

Participant parties to the documents

In cases where the technical monitor enters into the monitoring agreement directly with the public authority, you might want to conclude a separate agreement with the technical monitor. Experience has shown that without an agreement setting out clear rights and expectations, opportunities to influence course corrections are limited.

Prior to signature, the initiator of the Integrity Pact may bring the Integrity Pact to a parent authority to gain their support and for them to provide official permission to the contracting authority to comply with the Integrity Pact on the project, which has an important social benefit and/or is prone to be corrupted. Ultimately, the purpose of this agreement is to gain acceptance at a higher level that public procurement will be conducted in a transparent manner.

In addition to the traditional parties to the agreements, other parties – such as the donor that provides the funding for the project, the managing authority that manages the funds out of which the project is financed, a supervisory body of the contracting authority, or other government

²⁰ Transparency International (2014), pages 39–46.

²¹ Transparency International (2014), pages 80–81.

²² Transparency International (2014), page 90.

²³ Transparency International (2014), page 95.

body that may control the legality of the project – may be contracting parties, or countersigning parties. Whilst this may increase their engagement, ultimately the more complicated your Integrity Pact is, the less efficient it will be. Other options to ensure engagement can be pursued. For example, an early draft of your Integrity Pact can be circulated for comments and suggestions.

Clarity and precision in preparation and drafting

If agreements lack clarity and precision in regard to the different articles this can lead to complications and delays during the process. Experiences in India have shown that failure to adequately spell out routes for channelling grievances can lead to confusion and can slow progress. The same can be true where there is an absence of details regarding incident management or a mechanism to trigger sanctions.

The same clarity and precision is needed when considering the legal context. Laws should be read carefully, with an eye to identifying loopholes that must be closed off. Again in India, there have been cases where companies black-listed under commercial law were sanctioned. When directors of black-listed companies were seen by competitors to be setting up new companies immediately after their original companies were black-listed, it became clear that there was a loophole in the law that had previously been overlooked.

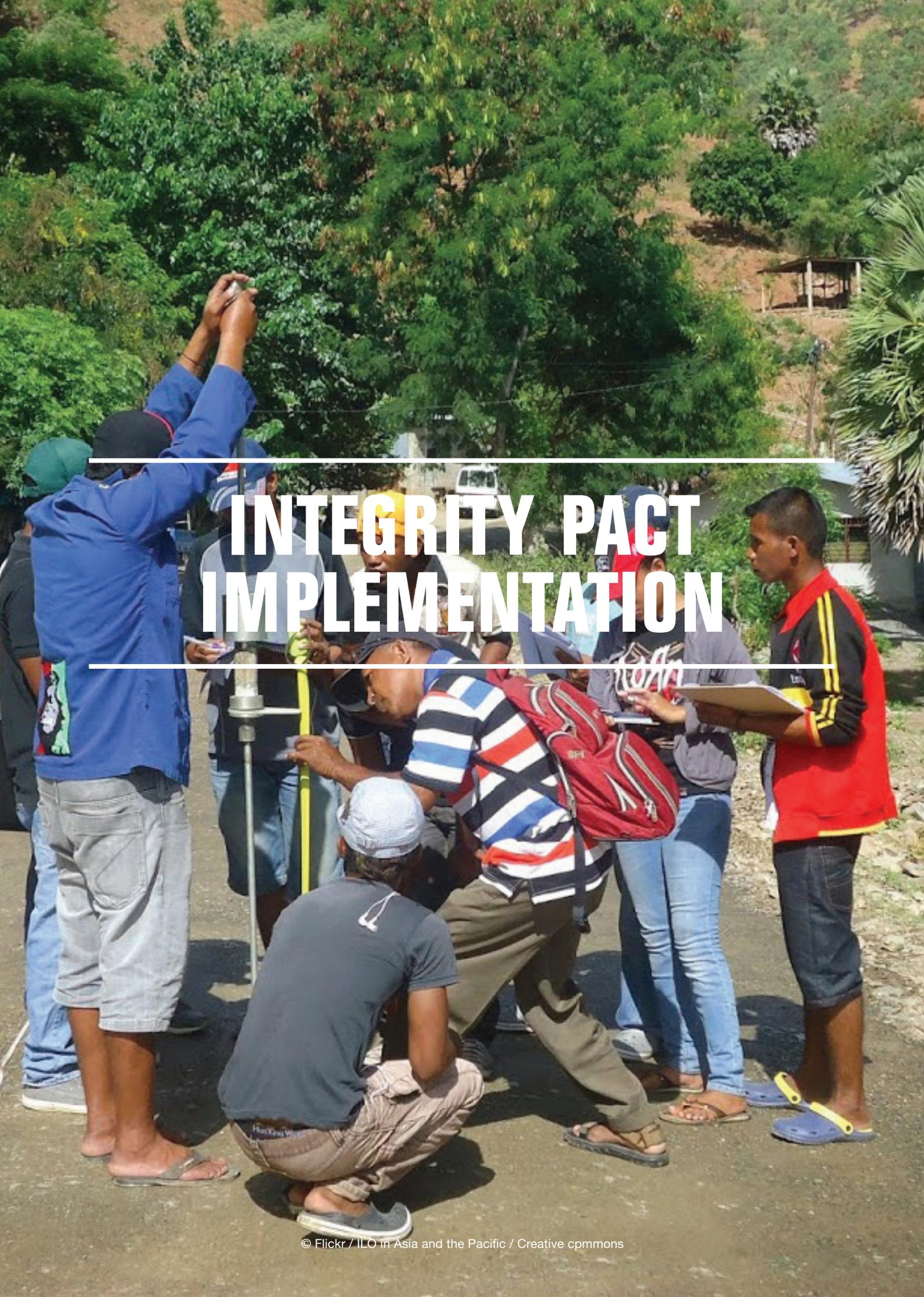
Publicity

It is crucial that the Integrity Pact should be publicly accessible. Online publication is one option but, if it can be agreed, organising a public event, with media coverage, for the signing can ensure greater reach and awareness.

PRACTITIONERS' EXPERIENCES

A BAD EXAMPLE FROM ONE OF TRANSPARENCY INTERNATIONAL'S CHAPTERS

Transparency International was not the civil monitor, and did not conclude an agreement with the civil monitor. Instead, the donor signed a monitoring agreement directly with the monitor, and Transparency International only countersigned it. Later, the civil monitor took total control of the project, did not inform Transparency International of any changes or problems, and Transparency International lost its authority to supervise the project.

A group of people are gathered outdoors in a sunny, wooded area. In the foreground, a man in a blue long-sleeved shirt and grey shorts is holding a camera up to take a picture. To his right, a man in a striped shirt and a red backpack is leaning over a tripod-mounted device, possibly a surveying instrument. Another man in a grey t-shirt and a white cap is crouching in front of the tripod. In the background, several other people are standing, some looking at a tablet or phone. The scene appears to be a field activity or a community meeting. A large white text overlay is centered over the image, reading "INTEGRITY PACT IMPLEMENTATION".

INTEGRITY PACT IMPLEMENTATION

HOW DO I DEAL WITH RISKS DURING IMPLEMENTATION?

Efficient mitigation of risks can be ensured by early stage planning. As noted previously, there are three main steps to be followed to prevent, minimise and successfully manage risks: these include addressing early considerations, identifying and planning for risks and ongoing risk management and evaluation throughout the Integrity Pact implementation phase, to which this section is dedicated.

It is of great importance that the civil society organisation has a clear risk management approach, and sufficient resources to mitigate risks.

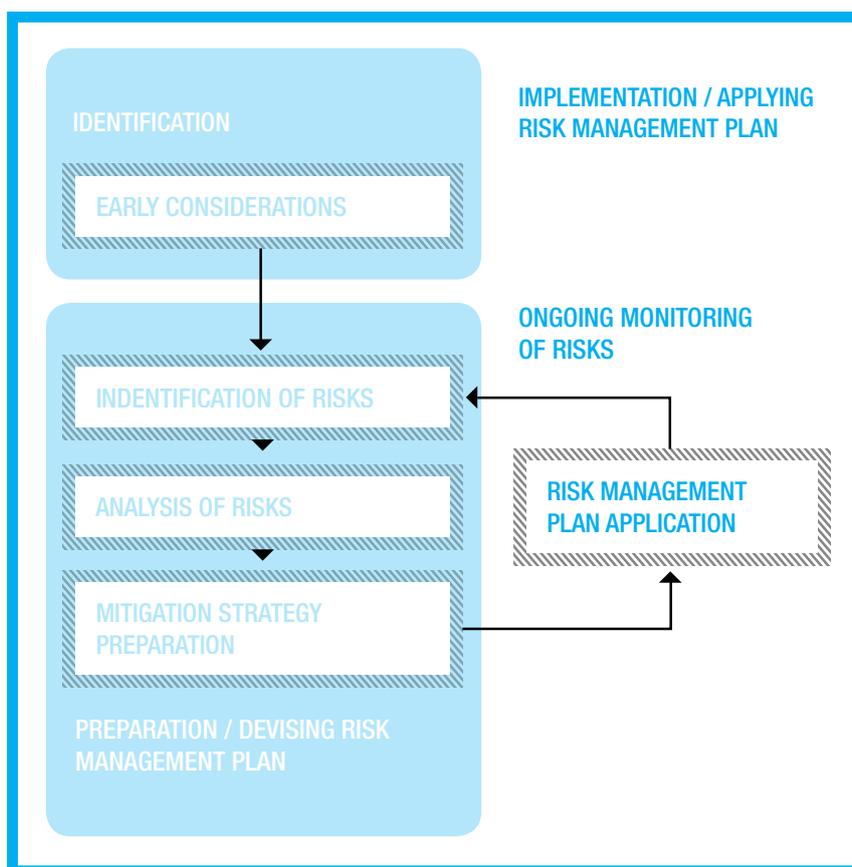


FIGURE 8: RISK MANAGEMENT DURING THE IMPLEMENTATION PHASE

ADVICE

In general, the risks that a civil society organisation might face during the Integrity Pact implementation phase can be successfully minimised, prevented or mitigated by using the following approaches:

1) Knowledge sharing and popularisation

Integrity Pacts are a tool that are still not widely popular among the general public and parties involved in the public procurement process. The less knowledge that exists about them, the higher the chances of misinterpretation or misuse. Approaches towards

improving the level of general knowledge about Integrity Pacts as a tool may vary, but some options that have worked for Integrity Pact practitioners in the past are listed below:

- information campaigns for the general public – these can be especially efficient if the project within which the Integrity Pact is implemented affects a specific region or target group.
- targeted training on Integrity Pacts for other civil society organisations – improving other civil society

organisations' knowledge about Integrity Pacts might not be of benefit only to the implementation process, it can also create useful allies in the fight against corruption in the public procurement process.

- targeted training on Integrity Pacts and the public procurement process for the media (journalist master classes) – again, if the media environment is suitable and this approach can be applied, the civil society organisation will benefit from a more professional public presentation and interpretation of the Integrity Pact.

This approach might help to prevent, minimise or mitigate, among others, the following risks:

- misunderstanding or misinterpretation of Integrity Pact's objectives, scope and potential
- misusing the Integrity Pact "label".

2) Active communication

An Integrity Pact implemented in the dark not only will not be able to achieve its goals, but it will present a substantial risk that it might backfire and affect the civil society organisation's reputation. On the other hand, active communication at each stage of the Integrity Pact process has the potential for results to be sustained and multiplied, and might act as a preventive mechanism in regard to some of the hardest to manage external risks.

The communication channels and approaches that should be used are case-specific and depend on the environment, country specifics, preferences and perceptions in the country in which the Integrity Pact is implemented. A combination of any of the following might be considered:

- regular media events or press conferences to inform the public about the Integrity Pact progress
- maintaining a targeted website or a section within another website with information about all implemented Integrity Pacts
- active use of social media

- production of printed materials targeted at the general public.

This approach can help to prevent, minimise or mitigate, among others, the following risks:

- misunderstanding or misinterpretation of the Integrity Pact's objectives, scope and potential
- misusing the Integrity Pact "label"
- political risks
- reputational risks.

3) Transparency of the process

Having strong, straightforward procedures to manage the Integrity Pact, including a monitoring methodology, conflict of interest management, confidentiality procedures and internal project management procedures is crucial, especially if the Integrity Pact project has a high budget and a high level of complexity. Ensuring the above-mentioned information is easily accessible, and is available on the organisation's website, is even more important. Having straightforward and well-communicated procedures can prevent and minimise the following risks:

- political risks
- reputational risks
- conflicts of interest.

4) Maintaining the highest standards

Being professional and ensuring the highest standards of work are maintained is both challenging and extremely important. When a civil society organisation initiates an Integrity Pact, it often needs to secure expertise beyond its own: in this process its own name and reputation might be at stake. Details and ideas about how to achieve high standards of work when engaging with external experts and/or organisations are given in "Is my organisation prepared to implement an Integrity Pact?"

Follow  to see more.

Maintaining the highest standards can prevent and minimise the following risks:

- reputational risks
- conflicts of interest.

5) Advanced planning

Advanced planning is very important for each process that involves a project management component. Unfortunately, for various reasons, and especially because of constraints in terms of financing, civil society organisations applying Integrity Pacts rarely have the chance to plan the process well in advance and in detail. Nevertheless, it is recommended, even in cases with an unclear timeframe and budget, to carry out basic planning of the activities to be implemented. One approach when planning activities in a situation of uncertainty is to try and plan several options, to develop a tentative timeframe and budget for each and to be aware of potential challenges attached in advance.

Advanced planning can prevent and minimise the following risks:

- insufficiency of resources
- reputational risks
- conflicts of interest.

PRACTITIONERS' EXPERIENCES

THE TRICK WITH THE FORGOTTEN DOCUMENT

In one of the projects monitored under an Integrity Pact in Rwanda, the contract winner submitted a forged document during the procurement process. It was only later on that this was discovered, when the monitor was certifying the submitted documents. The monitor reported the case to the contracting authority, and the contract was cancelled. Furthermore, it was recommended to the national procurement authority that the company be black-listed for indulging in corrupt practices as well as disregarding the terms of the Integrity Pact it had signed. The lesson learned in this case was that there are risks of not detecting fraud at the initial stage if the monitor is not in place in time.

TWO PAIRS OF SHOES – TRANSPARENT PUBLIC PROCUREMENT AND BREACHES OF LABOUR LAW

The first provincial public sector adoption of an Integrity Pact in India, in 2011, had in the past been subject to numerous allegations of violations of labour laws. The company was under fire for this from local politicians, supported by many grass-roots level activists from the province. When Transparency International India was announced as the lead agency of the Integrity Pact, many activists and members of the Transparency International chapter from the province approached high level officials in the chapter and tried to convince them not to take on this role. It was very difficult for us to make these activists and members understand that an Integrity Pact is not a form of certification, that it instead introduces a mechanism to make public procurement more transparent, and has nothing to do with labour laws.

HOW DO I MONITOR AN INTEGRITY PACT?

The independent monitor stands at the heart of the Integrity Pact model. The Integrity Pact Implementation Guide gives a detailed description of the functions of the monitor, the requirements of a good monitor, the types of monitoring system that can be used, considerations when selecting a monitor, elements of the monitoring agreement, suggestions for how the monitor should proceed if corruption is suspected, and considerations regarding access to information and confidentiality.²⁴

In this section, however, we would like to share with you our experiences over the past few years, to help you deal with some of the issues you will come up against in your day-to-day activities, and to share with you what steps we took to deal with such issues. When trying to design your overall model, this can further help your planning process and your approach to risk management.

ADVICE

Selection of the right monitoring system for your context

The Implementation Guide sets out details of the different options for selecting a monitoring system. There is no simple formula to follow to select the correct monitoring system. A clear understanding of the governance context in your particular location, and the opportunities and challenges posed, will help you select the right fit for you. See the case study from Rwanda at the end of this section in this regard.

The profile of the monitor

The Implementation Guide sets out the core requirements of a good monitor as being independence, knowledge, a good reputation, capacity, accountability and commitment.²⁵ Our work has underscored the importance of these requirements. We will share here some of the experiences we have had with these requirements and, where necessary, the steps we have taken to make adjustments to deal with weaknesses that have arisen.

Knowledge:

In Latvia, during the implementation of the Integrity Pact for the construction of the National Library, one monitor was engaged for part of the process. This monitor had expertise and knowledge relevant to a construction project of that size. His expertise enabled him to have a good understanding for the challenges and trade-offs faced by the contracting authority and to factor that into his dealings with them. This constructive approach was very much appreciated by the contracting authority and was very helpful in terms of maintaining an effective and constructive working relationship with the authority. However, due to budget constraints and the length of the project, this monitor did not remain in position for the whole process. This left gaps, which led to significant risks for the project.

Follow  p.37 to see more

At the early stages of Integrity Pact implementation in India, there were occasions where the expertise of the monitor was not specific to the particular public procurement project that was subject to the monitoring. This was harmful for the relationship between the contracting entity and the independent monitor as there was a loss of confidence in the ability of the monitor to add value to their work. In India, this was addressed by ensuring that in future the monitor's expertise was closely matched to the type of public procurement process being undertaken.

Commitment:

In India, independent monitors work directly with the contracting authority and are largely responsible for detailing their own workload. In many cases, a conscientious monitor proactively pursues its role as monitor. In other cases, however, the monitor takes more of a hands-off role. This has led to criticism, and a lack of understanding of the added value of the monitor in the process. Transparency International India is actively looking into how to address this and has already identified

²⁴ Transparency International (2014), pages 69–83.

²⁵ Transparency International (2014), page 72.

the following actions: monitors are now made clear about their specific obligations, with specific terms of reference being in place up front; each monitor is required to fill out a monitoring template, which ensures that they have to conduct a minimum amount of monitoring; and in the worst cases there is also the option to remove the monitor).

Reputation:

One of the core qualification requirements for monitors in India is that they are persons of impeccable integrity, as evidenced by their activities to date. A vetting of each person's background is conducted by the Central Vigilance Commission, before they are confirmed as a monitor. This element is welcomed by all stakeholders as providing a high degree of comfort that the monitor can fulfil their role in an independent and accountable manner. This in turn contributes to the development and maintenance of a strong working relationship between bidders, contracting authority and monitor.

Ensuring broad stakeholder involvement during monitoring
The nature and manner of the stakeholder to be involved requires critical consideration as not every stakeholder will make a suitable partner. It should be noted that only stakeholders with a clean reputation and record should be considered for stakeholder involvement. Multi-stakeholder involvement is crucial in order to achieve further replication and institutionalisation of the Integrity Pact model. The key stakeholders that can be involved alongside the more technical monitors include:

- the civil society organisation – such as a Transparency International chapter – that initiates or participates in the monitoring process and that plays an important role in raising questions about the process as it evolves
- the public, including citizens, as the final beneficiaries of the expected product or services gained under the procured contract, who play an important role by raising concerns and blowing the whistle when corruption is detected. In addition, the public can take a more active role. Public money is involved in this procurement process, and citizen participation at

certain stages of contract monitoring increases their ownership of the project implemented and increases their trust in public institutions.

- the media, both print and digital, which plays an important role as a watchdog that reports on the process, and in reaching more people and adding pressure when needed.
- individuals within companies or within the contracting authority who are aware of possible irregularities that are occurring there and who can bring these to light.

Synergies among all involved actors working towards the achievement of the same goal of “a fair procurement process free of corruption” exist during the entire procurement cycle. The civil society is in this respect represented by an independent monitor, who plays a coordination role as well as ensuring that measures are taken to prevent or detect any cases of corruption that may occur in the process of implementing an Integrity Pact.

Some of the best ways that we have found to generate this broad involvement, as individual groups and also through multi-stakeholder approaches, are presented in the following experiences.

PRACTITIONERS' EXPERIENCES

ESTABLISHING COMPLEMENTARY CITIZEN MONITORING

The potential for citizens to become engaged in the monitoring of a particular public procurement project is huge. However, there are capacity constraints that often stand in their way. One of the ways this scenario has been addressed is the setting up of infrastructure at the local level. In Rwanda, we first tried to work with a network of volunteers, but this was not sustainable in the long term. We then adapted the model used by Transparency International Bangladesh and set up Committees of Concerned Citizens at the local level. Selected by their peers on the basis of their impeccable integrity, these groups are the main point of contact with the chapter and facilitate the sharing of information on the monitored project so that the affected citizens have a better understanding of what they can expect and what they can ask for. They also facilitate the building of specific capacity for carrying out social audits. We have supported this process by preparing specific questionnaires to guide monitoring. The results of this monitoring also complement the independent monitor's report and add considerably to the expected results that may be achieved by the monitoring activities of the independent monitor.

EMPOWERING CITIZENS WITH SKILLS TO MONITOR THE PROJECT

For any successful implementation of the Integrity Pact to take place, citizens should be at the centre of the project. This fact is demonstrated by the use of an Integrity Pact in Zambia to help a local community receive access to clean drinking water. In Zambia the citizens were guaranteed a role in planning and carrying out project activities. It was learnt that the citizens knew best about the local conditions and circumstances. After building capacity in the citizens that we worked with, we discovered that they were immensely responsive to the project. In many Zambian communities in which an Integrity Pact has been implemented, the work has continued without our further involvement.

ESTABLISHING A MULTI-STAKEHOLDER CONTRACT MONITORING GROUP

Corruption cannot be fought in isolation. That is why efforts of other like-minded institutions and organisations are needed for better results. In order to accompany the work of an Integrity Pact, Rwanda has embarked on the launching of a multi-stakeholder contract monitoring group, which has been established under the coordination of the national chapter of Transparency International. This group is comprised of other civil society organisations, government national integrity bodies and private sector organisations. The group meets every three months, or at other intervals as deemed appropriate, to exchange ideas as well as to plan a series of monitoring field trips, which they undertake in small groups. The findings of these monitoring trips are added to those of the monitor before being provided to the contracting authority. In this way, in the Rwandan context it is ensured that the limited reach of the individual monitor is complemented by feedback from a much wider group of stakeholders. This approach to triangulation increases the level of accuracy of the information about the project and thus forms a strong basis for the independent monitor to formulate their opinion on the level of compliance with the terms of the Integrity Pact agreement.

EMPOWERING VICTIMS AND WITNESSES OF CORRUPTION TO RAISE COMPLAINTS

In addition to their potential engagement in monitoring, citizens can play a very important role as potential whistleblowers. However, depending on the context, there can be significant barriers to empowering those who are either victims of, or witnesses to, corruption to raise their voices. Depending on the importance of the project and the interests at play, they may even fear for their lives. Providing safe avenues for them to raise their concerns is critical.

In Rwanda, our chapter also works through the Committee of Concerned Citizens and links them to Transparency International Rwanda's Advocacy and Legal Advice Centres (ALACs). In this way we have been able to channel complaints to the monitor for further action.

WHAT KIND OF PROBLEMS MIGHT I ENCOUNTER DURING MONITORING?

A range of challenges can arise during monitoring, so constant awareness and corrective action is important. Some of the challenges we have encountered have included:

Monitor not performing to a high standard or otherwise failing in their role

As noted above, there have been instances where monitors were not fulfilling their function. A number of steps, ranging from the minor to the more major, can and have been taken to get them back on track. Taking an example from India, some of the steps that have been taken include:

Minor: In the case of minor challenges, discussing with the monitor what their obligations are and where they are falling short, and reiterating the expectations.

Intermediate: In the case of more serious challenges, where a correction is needed, a senior figure from the entity managing the relationship with the monitor can speak directly with them, laying out their concerns, and, if necessary, giving a warning.

Major: If it is not possible to remedy the problem, it may be necessary to remove the monitor and replace them with another more suitable monitor. Care must be exercised here as the monitor may make a complaint about their treatment. Their removal will be governed by a contractual agreement so it is recommended that attention should be given to spelling out the circumstances under which the monitor can be removed and the process that will be followed. This must be closely complied with for the sake of the Integrity Pact.

Changing of monitor mid-way through the process

Particularly in longer projects, there can be a need to hand over from one monitor to another. This can be a challenge if there is not sufficient emphasis on the handover phase from the earliest point of the project design. This has arisen

as a challenge in India, where there are also term limits for monitors. In such instances there can be much confusion, such as: lack of knowledge of stakeholders as to who the serving monitor is; and loss of information and knowledge about progress and challenges to date. Once again, the options for dealing with this challenge vary, as evidenced through the steps taken in India, summarised below:

Minor: Changes of the monitor are clearly communicated to all participants – directly to the successful bidder, to the contracting authority, to involved civil society organisations, and to the public at large through relevant updates on public websites. The tender documentation at the outset clearly sets out that such a turn-over may happen and how it will be communicated, so there is clarity from the earliest point.

Intermediate: The terms of reference and the contract for the monitor set out clearly that there will be an expectation that as part of the monitor's duties they will document their progress and complete a final handover report before their departure. A model for this handover can be put in place at the earliest phase of the planning.

Major: The contractual terms with the monitor should reflect this concern. This can include, for example, a clause on termination or a notice period requiring a minimum period to facilitate handover to a new monitor. Another approach that can be taken is to research and identify a pool of potential suitable replacement monitors who can take the place of the initial monitor.

Limited reach and capacity of the monitor

Depending on the size of the project, the number of monitors and the budget, it can be difficult for the monitor to cover the full range of processes that might be desired. This challenge has arisen on numerous occasions and a range of actions have been taken to address it.

Minor: In some cases the practitioner managing the

Integrity Pact process has taken the decision not to engage in a project where the resources needed to carry out effective monitoring are in excess of those available. They have, rather, focused on a less elaborate project. This has been the approach taken in Poland for example.

Intermediate: Another option that has been chosen is to carry out a thorough risk assessment of where the most likely risks lie for a particular project and to target monitoring efforts on that part. It is essential, however, that this process of prioritisation be strictly internal, so as not to provide any advantage to those seeking ways to make a profit out of the public procurement process by evading detection.

Major: A further option adopted by Transparency International Rwanda, for example, has been to set up complementary monitoring mechanisms that feed into the central monitor. This option is further elaborated under the

section on stakeholder involvement. Others have selected the option of linking with established multi-stakeholder groups to support the monitor in their work.

Dos and don'ts for the monitor

The Integrity Pact Implementation Guide sets out some key functions of the monitor that should guide your work. An example of a list of dos and don'ts for monitors can be found in the publication by Transparency India, Manual for the Examination of Public Procurement Process – although this is specific to the India context. Based on our experience, however, the following tips can be shared more generally to help you with your decisions during implementation:

Monitors should, above all, be proactive and should actively seek to shape their own role across the main areas of their work, which can be broadly interpreted as follows:

Main area of work	Dos	Don'ts
Monitor progress	<p>Review with equal scrutiny the cases brought against bidders and those brought against the public authority.</p> <p>Coordinate participation in relevant procurement meetings with the contracting authority.</p> <p>Visit the work site of the project regularly according to need – carefully identify that need for the specific project.</p> <p>Actively follow up with the contracting authority to ensure action is being taken in order to avoid potential litigation by dissatisfied parties.</p>	<p>At any point in fulfilling their role, participate in the executive functions of the contracting authority.</p> <p>Play any role in the initial drafting of the tender or otherwise compromise the independence of the process.</p> <p>Receive instructions from any involved party. The monitor must be an unbiased party in the implementation of Integrity Pact.</p>
Produce reports, including advice and recommendations	<p>As soon as they perceive a violation of the Integrity Pact agreement, inform the management of the contracting authority and recommend relevant and corrective action be taken.</p> <p>Take the decision to escalate if serious irregularities are suspected and send their reports to the Transparency International chapter or anti-corruption agency or other identified pathway.</p>	<p>Demand action. The role of the monitor is purely advisory.</p> <p>Make remarks on the conduct of any official of the contracting authority or bidder in any written report, unless based on facts and good evidence.</p>

Main area of work	Dos	Don'ts
Maintain relationships	<p>Organise meetings with stakeholders, in close coordination with the contracting authority.</p> <p>Meet regularly with senior management of the contracting authority, as well as the successful bidder, to discuss the progress of the Integrity Pact and discuss the ongoing tendering process.</p> <p>Use discretion to ensure that information and documents that come to their attention through monitoring are treated with confidence.</p>	<p>Delay. If there is a problem, seek to proactively organise teleconferences as a quick resolution to issues when all parties are not centrally or conveniently located.</p>
Build capacity (own and others)	<p>Carry out training sessions on the Integrity Pact for bidders, contracting authority employees, non-governmental organisations and the public.</p> <p>Establish and maintain contact with other monitors who might have dealt with similar situations, to seek to build their expertise.</p> <p>Familiarise themselves with the provisions of the contract manuals of the contracting authority and also with relevant anti-corruption laws, procurement procedures and manuals of the contracting authority and successful bidder.</p>	<p>Act alone. As much as possible, try to arrange training sessions in coordination with the contracting authority.</p>
Communicate	<p>Ensure that results of investigations into complaints are publicised to prove the monitor's effectiveness, impartiality and expeditiousness.</p> <p>Work to build trust not only amongst potential bidders but also with the senior management and other officials of the organisation to build up a synergic anti-corruption movement.</p>	

PRACTITIONERS' EXPERIENCES

DEVELOPING A LIST OF "DOS AND DON'TS FOR MONITORS" THROUGH STAKEHOLDER FEEDBACK IN INDIA

Transparency International India actively seeks feedback from all stakeholders – public sector, private sector and monitors – at regular intervals. This feedback has enabled us to frame a list of dos and don'ts for monitors. One example of such feedback was that many stakeholders from business and public sector raised concerns that some monitors were going beyond their mandate as set out in the Integrity Pact, causing a strain on the relationship. We looked into this matter further and acted to incorporate greater guidance into the monitors' terms of reference and training.

HOW DO I WRITE MONITORING REPORTS?

Consolidating Integrity Pact progress and completion reports to inform other stakeholders is vital to the whole Integrity Pact process. It is through the documented successes and challenges that the Transparency International chapter or the civil society organisation leading the Integrity Pact process can advocate for a multi-stakeholder joint action to address the challenges encountered, and possible replication of such action beyond the concerned geographical project implementation and policy uptake.

When to produce the report?

The monitor will hold regular meetings with the contracting authority officials – in some cases through its ad hoc procurement committee and the in-charge chief budget manager. Such meetings are also envisaged with bidders, to collect their views on how they perceived the procurement process which took place. The outcomes of these meetings are captured in a simplified reporting format by the monitor and submitted to the chapter, with a copy given to the concerned stakeholders (contracting authority or bidders). The frequency of the reporting period for reporting to the leading civil society organisation will be defined in the independent monitor's terms of reference. This reporting may be done on a weekly, monthly or quarterly basis. However, the monitor is required through its contractual obligations to report any time it deems it necessary, to allow the civil society organisation leading the Integrity Pact process to mitigate any risks that may arise and that may compromise its credibility.

If you are the independent monitor, the following recommendations may help ease the workload of producing the report:

- Keep appropriate supporting records of the monitoring activities and observations
- Draft intermediate reports at the end of each stage of procurement (pre-bidding, bidding and post bidding)

- Summarise activities and observations at the beginning of each report to make it easier to follow and to understand

What should the report to the leading civil society organisation and stakeholders at large include?

- Timeline of disclosure-related documents (for example, meeting minutes, supporting documents for consideration in the final meeting, etc.)
- Whether the monitor is satisfied with the received information
- Any suspect or unclear information identified by the monitor
- Fact-finding regarding technical components
- Wording should not refer to or blame anyone in the project directly
- Checklist format — Yes or No questions will be easier for the monitor in fulfilling his report.²⁶

How should the report be submitted?

- Directly to government and the agency project owner, and circulated to the governance body of the Integrity Pact or supreme authority.
- In a case where a violation has occurred, the monitor can directly report to government, to the agency project-owner, and, if the case is urgent, verbally to the supreme authority.
- Hard or soft copy? Normally these reports are legally-binding documents, so all documents must be signed by the independent external monitor individually. A soft copy format is convenient for communication to all stakeholders and for public sharing.

²⁶ The Thai Institute of Directors in Thailand has developed a reporting format for use in the Thai context. This could be used as an inspiration, and could be adapted to your country's particular needs.

A copy should be provided to the Transparency International chapter, if you wish to gain their support and improve your reputation.

- A progress report is released as a public document.
- In the case of a suspicious activity that is as yet unproven, a confidential project report must remain classified until the investigation process is completed.

How should complaints be handled?

Complaints about deviations from an Integrity Pact should be signed by the concerned parties and submitted to relevant stakeholders, as provided by the law governing the procurement appeal mechanisms. In many countries, the first level of handling complaints is the procuring entity. In the framework of cases detected through the use of an Integrity Pact, the independent monitor should submit its complaint to the procuring body and provide copies to the Transparency International chapter or lead civil society organisation responsible for the implementation of the Integrity Pact. If the complaint is not adequately addressed by the body, the lead civil society organisation should submit it to the national procurement authority. The time within which action must be taken on the case reported will be stated in the law governing public procurement and appeal mechanisms in various countries. It is expected that the latter will take action on the case reported to it; if no action is taken, the chapter or civil society organisation may consider the possibility of withdrawing from this monitoring process.

PRACTITIONERS' EXPERIENCES

MANUAL OF INDEPENDENT MONITOR IN THAILAND

In Thailand, a procedures manual for monitors was developed. The manual is designed to instruct and support the monitor in carrying out their role of monitoring a contract for any corruption or any breach of procurement or contract management regulations. The manual contains a template for the monitoring report for the procurement phase and delivery phase of a contract. It specifies a series of actions that the monitor should take, questions that the monitor should ask, and assessments that the monitor should make. It is designed to be completed by the monitor as the monitoring role progresses, and to be published once the procurement process is complete.

CITIZENS' INVOLVEMENT IN PREPARING REPORTS IN RWANDA

During the implementation phase, citizens living in the area surrounding the public procurement project implementation site can also be involved in monitoring. Transparency International Rwanda holds regular meetings with the representatives of citizens, organised into Concerned Citizens Committees, who also visit the construction sites. If a citizen finds an irregularity of any kind, he or she reports that to us. They use a monitoring data collection tool we have designed to collect data on project implementation. We regularly prepare progress reports that capture both the monitor's findings and any citizens' monitoring findings. The report is designed in a format that follows the procurement cycle, with clearly defined indicators that will be tracked.

WHAT CHALLENGES MIGHT I FACE WITH REGARD TO SANCTIONS?

As set out in the Integrity Pact Implementation Guide²⁷, sanctions are an integral part of the Integrity Pact document itself. Sanctions can be applied to parties that do not fulfil their commitments. For this reason, at the early stages of the Integrity Pact it will be important to clearly research and define what the sanctions should be. The sanctions that have been included in Integrity Pacts over the years depend very much on the national legal context and may be subject to extensive negotiation. In terms of implementation, over the past 10 years a number of challenges with regard to sanctions have been encountered. The forms these challenges have taken, and some indications of how we have dealt with them, are highlighted below.

ADVICE

Challenge 1: Fear amongst the public and other bidders can prevent them from raising complaints, leading to the private sector actor getting away with bad behaviour. In many cases members of the public or other bidders who become aware of breaches of the Integrity Pact are concerned about raising these directly with the monitor, as they are then no longer anonymous and can face repercussions. This is particularly so when there is a major public procurement contract at play, with major political and financial interests behind it. It is also a concern for bidders who worry about being penalised by the contracting authority in future contracts if they “cause trouble” this time.

As such, we have found it very useful to make sure that information about participating bidders is made publicly available on the website of the procurement entity, and that this is linked to information for whistleblowers, to encourage them to also police compliance with the Pact and to act as the extended eyes and ears of the monitor who can only achieve so much alone.

Challenge 2: Businesses black-listed in one country cross the border to neighbouring countries and continue their corrupt actions there, then return after the period of their

sanction has run out. In this way, there is no true sanction and continued pressure cannot be brought to bear on them to change their ways.

One approach we have found that can help to counteract this is to ensure the sharing of information on black-listed companies between civil society organisations monitoring public procurement or applying Integrity Pacts in different countries.

Challenge 3: Challenges to the imposing of sanctions on a bidder. At times, the bidder does not accept the application of sanctions despite having signed on to the Integrity Pact. Often their immediate recourse can be to go to court, if, as set out above, mediation is not clearly built into the Integrity Pact as a first step to deal with grievances.

In such a case, the monitor, therefore, needs to be very rigorous in how they document breaches that arise, and they must be scrupulous in building a clear case to support this process. They also must ensure they provide an opportunity to the bidder to hear their point of view. This will support the public authorities in regard to applying the sanctions efficiently.

Challenge 4: Questions about the credibility of the information received by the monitor. When the monitor receives a complaint or a tip-off regarding the occurrence of some irregularity, they can face difficulties in ascertaining whether that information is reliable or not. They must make every effort to verify the information before they can make any recommendation for the application of sanctions.

Suitable steps we have found to deal with this issue are, first, to request additional information about the specific facts surrounding the public procurement procedure at hand, from the public authority. Second, to put the complaint directly to the alleged perpetrator, to obtain their input. In many cases, this can help to clarify the issue. However, when a vague complaint is received from an anonymous source there are often no options for doing

²⁷ Transparency International (2014), page 41.

this. Sufficient guidance should, therefore, be given to potential whistleblowers in terms of how to frame their complaint.

Challenge 5: The monitor, as an “advisor”, has a limited role in implementing sanctions and, as such, they rely on the proactiveness of the authority to take action based on the input they provide. This limited role is necessary to protect the monitor against personal liability. However, we have at times faced challenges when a public authority is reluctant to act.

In India we have found it useful to take a number of steps, of increasing severity. First, the civil society organisation that is coordinating the Integrity Pact writes directly to the contracting authority requesting action be taken. If there is a continued failure to act, the anti-corruption authority in the country can be copied into the correspondence. If there is continued delay, and the breach identified is of potentially very severe, and if no action is taken despite substantiation, the civil society organisation can threaten to withdraw from the Integrity Pact, before actually doing so.

Challenge 6: Ensuring compliance with legal requirements to ensure the maximum chance of sanctions being applied.

When the monitor writes a report that includes specific complaints or identification of irregularities, they must be aware that in the future this may form a part of court proceedings. As such the report must be written in such a way as to be in line with the particular laws on evidence in the country in question. Ultimately the final report will be approved by the legal team within the contracting authority and this may entail interactions with the monitor, to ensure the report is in the correct format. Ensuring specific care and attention at this stage will be critical in order to ensure sanctions can be imposed for breaches, and that procedural factors do not get in the way.

Challenge 7: Enforcement of sanctions is circumvented, based on specificities in the law. In some instances we have come across situations in which a company has been black-listed, but individual company directors have gone on to set up another company, basically taking up where they left off with the previous company. In these cases this was a result of specific challenges in the law,

which attached liability only to the company and not to the company directors.

The issue was identified through competing bidders bringing it to the attention of Transparency International India. Transparency International India further raised the loophole with the Ministry of Corporate Affairs. After a number of years, this was addressed through a revision of the Companies Act attaching liability to named directors. This shows how critical it is to look very closely at the relevant laws when laying out sanctions, to ensure that sanctions included in the Integrity Pact are fit for purpose.

Challenge 8: Severely limited options in terms of available bidders. It has arisen in some of the larger cases, such as defense procurement, that the bidder to be sanctioned was the only possible supplier of the equipment needed for the public procurement process. This has been a challenge and the options that we have chosen to deal with it are, first, to ensure as diversified a pool of bidders as possible from the outset, and, second, if we remain limited to just one bidder, to look at applying warnings rather than black-listing.

PRACTITIONERS' EXPERIENCES

A POSITIVE APPROACH TOWARDS APPLYING SANCTIONS IN BULGARIA

In Bulgaria, Transparency International Bulgaria has not added any additional sanctions in the Integrity Pact other than those set out by law. Instead, they decided to use a positive approach of using carrots rather than sticks to promote a fair and competitive business environment. Transparency International Bulgaria maintains a “white list” of all companies that have signed an Integrity Pact and have fulfilled their responsibilities within it. However, each Integrity Pact initiated by Transparency International Bulgaria includes specific clauses and grounds for exclusion from the white list in cases of violation of the Integrity Pact regulations. This acts as an incentive for the winning bidder to maintain high standards.

HOW DO I COMMUNICATE DURING THE IMPLEMENTATION PHASE?

Why you should communicate what you are doing?

Communicating is a central task of the monitoring process. The Integrity Pact is a tool that opens up a contracting process to the public, so your communication strategy should also reflect this openness. When communicating during the implementation, it is important to keep in regular contact with the key participants and main stakeholders. When you communicate, bear in mind that one of the goals is to strengthen trust and openness in regard to the procurement procedure that is being monitored. If a communication strategy was planned during the preparation stage it will need to be reviewed and adjusted on a permanent basis, so as to increase the impact and success of the monitoring process. If a communication strategy was not planned, it is advisable to define a set of minimum rules and policies that provide guidance to the organisation, such as setting rules for registering and following up media requests.

Some useful practices to keep an organised tracking of the implementation stage are:

1. Link your communication strategy to the Integrity Pact agreement and action plan/timeline
2. Identify roles and responsibilities of each stakeholder (especially the main player/government agency, oversight authority or in-charge committee, bidders, civil society organisations, and monitor)
3. Clearly record all correspondence and responses from every stakeholder
4. Keep all documentation issued by any authority, filed by date or topic and referenced in ways that will make it easy to locate and to refer to
5. Define roles and duties of each player during the process of monitoring
6. Identify best practices to be adhered to during the process of monitoring

During the monitoring, it is advisable to also keep the public informed. In general, the public procurement procedures for which the Integrity Pact is implemented have a high public value, which will attract the attention of different groups and sectors. Disseminating certain information during the monitoring stage helps to increase the perception of openness and public trust as well as the commitment of participants to the Integrity Pact. It can also reduce the risk of misinterpretation when information is being progressively disseminated.

One basic tool to make the dissemination process easier is the creation of a specific website or section within the organisation's website for the Integrity Pact. It is important to keep this website updated according to the timeline of the Integrity Pact. The use of social media can also be considered. The information to be disseminated should be carefully assessed to ensure that its publication will not affect the implementation of the Pact and the conditions under which the public procurement is being developed.

Once the monitoring has concluded and the final report has been completed, the report should be shared with the various stakeholders and the public. It is best to make the complete report public and also to prepare a summary of the main outcomes of the Integrity Pact. If the organisation has implemented Integrity Pacts before, it is suggested that the current Pact be added to the others in the repository (ideally in a digital format) where they will be made available for public consultation. A press release or social media announcement about this availability can broaden the scope of people who will access and view the report.

Also, note that communicating is a two-way street. The organisation should not only be disseminating information but also be ready to receive key information about the public procurement procedure and the Integrity Pact project. Protocols to monitor media and news can be useful to help you understand and keep track of the public opinion towards the procedure. Be sure to also state the channels that can be used to get in contact with the

organisation, and be sure to provide a safe channel for messages about suspicious corruption, complaints, or for whistleblowing.

How to use various communication channels?

There are several communication channels that can be used during the implementation of the Integrity Pact, ranging from conventional press conferences and media interviews to social media and multimedia. The best combination of channels is the one that reaches each stakeholder involved. Using different channels can also increase the likelihood of achieving higher impact. Be aware that there should be consistency among the different messages and information shared in different communication channels. Identify core messages to be shared and stick to them. Adjust the shape the message can take in each channel, but do not forget about the objectives that the organisation has set for the Integrity Pact. When choosing a channel of communication to reach the wider public, you must translate technical terms or specific vocabulary into an easily understood format, such as infographics, and then you can spread the messages via social media networks.

PRACTITIONERS' EXPERIENCES

USING SOCIAL MEDIA TO INFORM THE PUBLIC

In Mexico, social media has become a quick and easy way to communicate with the public at large. Whether it is Facebook, Twitter or other popular networks, social media can be a powerful tool to disseminate information about the public procurement process and its monitoring. In certain cases, especially those in which there is increased public attention, social media can be useful for keeping the public constantly informed and communicating directly to them, without the need of intermediaries. Such direct communication also helps to strengthen the perception of openness and independence in the process. At Transparencia Mexicana we have also used social media to communicate the evolution of public procurement procedures in our monitoring as a social witness, in real-time.

Using Twitter, Transparencia Mexicana set a rule to always use the hashtag “#TestigoSocial” (Testigo Social) plus the acronym of the ministry the contracting unit belongs to. For example, in public procurement procedures regarding the Mexican Ministry of Education, it has used #TestigoSocialSEP (Secretaría de Educación Pública). So we first define a hashtag to identify every message that will be published. During the monitoring process, Transparencia Mexicana publishes messages that provide information to any interested citizen about the official actions that take place and their results – such as the date proposals are to be received, and the number of proposals that were received – and that also gives access to relevant information, such as a link to the signed contract or to the monitoring report once it has been published.

Our communications strategy is always announced to all involved parties, such as the contracting authority. The messages that are published are linked to the already existing section on our website for the social witness reports and related news.

WHEN AND HOW MIGHT I WITHDRAW FROM THE INTEGRITY PACT?

Withdrawing is the most serious way of responding to breaches of the Integrity Pact and it can only be used once. If you withdraw, you send a strong signal to the public and other stakeholders that the monitor was unable, despite their best efforts, to correct any wrongdoings identified, and that these wrongdoings are hampering the clean continuation of the procurement project.

From our experience, it is absolutely essential that the following elements relating to withdrawing are clear at the earliest stages:

1. The reasons for withdrawing, as well as the formal process to follow. These should be well thought through in advance and be clearly elaborated in the relevant Integrity Pact documentation (in other words, the Integrity Pact and the memorandum of understanding).
2. The internal process for the monitor to reach a final decision on withdrawal. This should be clearly thought through and agreed in advance. Any relevant internal structures and processes should be put in place at the earliest stage.

ADVICE

Reasons for withdrawing

The Integrity Pact Implementation Guide sets out four main grounds for withdrawal: denial of access to information by the authority, the authority impeding the fulfillment of the monitor's duties, the contracting authority failing to take corrective measures once issues are flagged, and any other circumstances that severely impede the monitor's ability to fulfil his/her duties.²⁸ Based on our experience, some of the key things to look out for in this regard and actions to take along the way are:

- Corruption is not always visible. Failure to deal with significant conflicts of interest, and lack of attention in dealing with corruption accusations on the part of the authority, can be signals of growing corruption

risks. These signs will very often go hand-in-hand with hiding information from the monitor. Willingness of both sides to cooperate is at the heart of the Integrity Pact process. Without it, the Integrity Pact becomes irrelevant.

- Information about possible corruption might surface as the Integrity Pact proceeds. Some information might not be accurate, some may be hearsay, and in the case of some information there might be a real corruption case behind it. Nevertheless in all cases:
 - » the Monitor should always take a serious attitude towards the allegation. The government authority should demonstrate the same attitude
 - » prompt action should be taken and procedures should be in place to support this
 - » the source of the information should be invited to give more details, together with supporting material
 - » if there is enough material or serious suspicion – you should request that the government agency report it to law enforcement or relevant investigative institutions or you should report it yourself
- All irregularities identified need not be addressed in the same way:
 - » There might be a serious corruption case that undermines the integrity of the whole project: for example, corruption is spotted during the main bidding process. If the case jeopardises the very basis of the Integrity Pact it may require more severe action.
 - » On the other hand, there might be smaller situations of corruption within a large project that, if addressed properly, need not serve as a reason

²⁸ Transparency International (2014), page 83.

for withdrawal. These may require a more gradual escalation towards withdrawal.

- During the implementation of an Integrity Pact, it is important that implementing authorities, at a minimum:
 - » fully condemn corruption both internally and externally
 - » cooperate and share information with the monitor cooperate with the law enforcement authorities
 - » If any of the above does not happen, despite repeated requests by the monitors, withdrawal may become a feasible option.

Process for withdrawing

Should the decision be reached that a particular occurrence is severe enough to support a decision to withdraw, a fixed process, as set out in the initial Integrity Pact and memorandum of understanding, should be initiated. Some proposed stages that could be included in the process are as follows:

Stage 1: The monitor addresses the discrepancy in writing to the contracting authority. This would set out the main concerns arising and details about the available evidence, and should seek a response from the contracting authority on actions it intends to take to address the issue. This notice should also specify a realistic timeline, in line with the Integrity Pact document, within which a response should be made. If within the timeline the discrepancy is not addressed the monitor can move to the second stage of the process.

Stage 2: The monitor discusses the issue in a face-to-face discussion with the contracting authority, and once again requests a response on the issues raised and intended actions. This can lead to a plan to address the discrepancies and an intended timeline which the monitor may wish to monitor. If, however, no agreement is reached and no action is taken, the monitor may wish to escalate to a third stage.

Stage 3: The monitor warns the government authority, in writing, of their intention to withdraw from the process, sets out clearly their reasons, together with the steps taken to date to address their concerns, and states the repercussions of withdrawal. If, however, action is still not taken, the monitor may wish to escalate to a fourth stage.

Stage 4: The monitor follows the designated internal process to reach a united and efficient decision about whether to withdraw and how withdrawal will be handled

Step 5: The monitor announces the withdrawal to the government authority, citing clearly the grounds for withdrawal. The withdrawal can also be announced to the media. However, depending on the profile of the project, the monitor should be ready to answer questions from the media and pull in extra resources as necessary to appropriately manage the situation.

It should be noted, however, that the monitor can still take a decision as to what their next steps will be. At least three options remain open: (1) leave the Integrity Pact completely, (2) seek to engage the public and media to continue to monitor the project, pinpointing for them which aspects continue to be important, or (3) continue to monitor the project from a distance.

PRACTITIONERS' EXPERIENCES

IN LATVIA WITHDRAWING IS NOT ALWAYS THE BEST SOLUTION

Transparency International Latvia was considering withdrawing from the Integrity Pact on the Construction of the National Library in early 2013, but in the end chose not to do so. Transparency International Latvia was convinced that the Ministry of Culture had taken a decision that did not adhere to principles of good governance in relation to the awarding of a contract for infrastructure projects without public tender. A long period of discussion ensued with the ministry as to the correctness of that decision. This coincided with intense negotiations within Transparency International Latvia as to whether they should or should not withdraw from the Integrity Pact. In the end, it was agreed that the only basis upon which Transparency International Latvia could withdraw would be under the clauses in the Integrity Pact itself. Although Transparency International Latvia considered the action concerned to be a serious breach of good governance, the agreement between Transparency International Latvia and the Ministry of Culture did not list this as a reason for withdrawal. As such, the chapter continued with the Integrity Pact.

This taught us both the importance of thinking through withdrawal and the inclusion of reasons for withdrawal prior to drafting of the Integrity Pact document, as well as the importance of agreeing on an internal process for reaching agreement on withdrawal conditions.

IN GERMANY, IF EVERYTHING GOES WRONG...

Transparency International Germany withdrew from the Integrity Pact for the Berlin-Brandenburg Airport in spring 2015, after 10 years. The Board of Transparency International Germany reached this decision based on its view that the airport authority was not taking corruption risks seriously. This decision was reached within a context where:

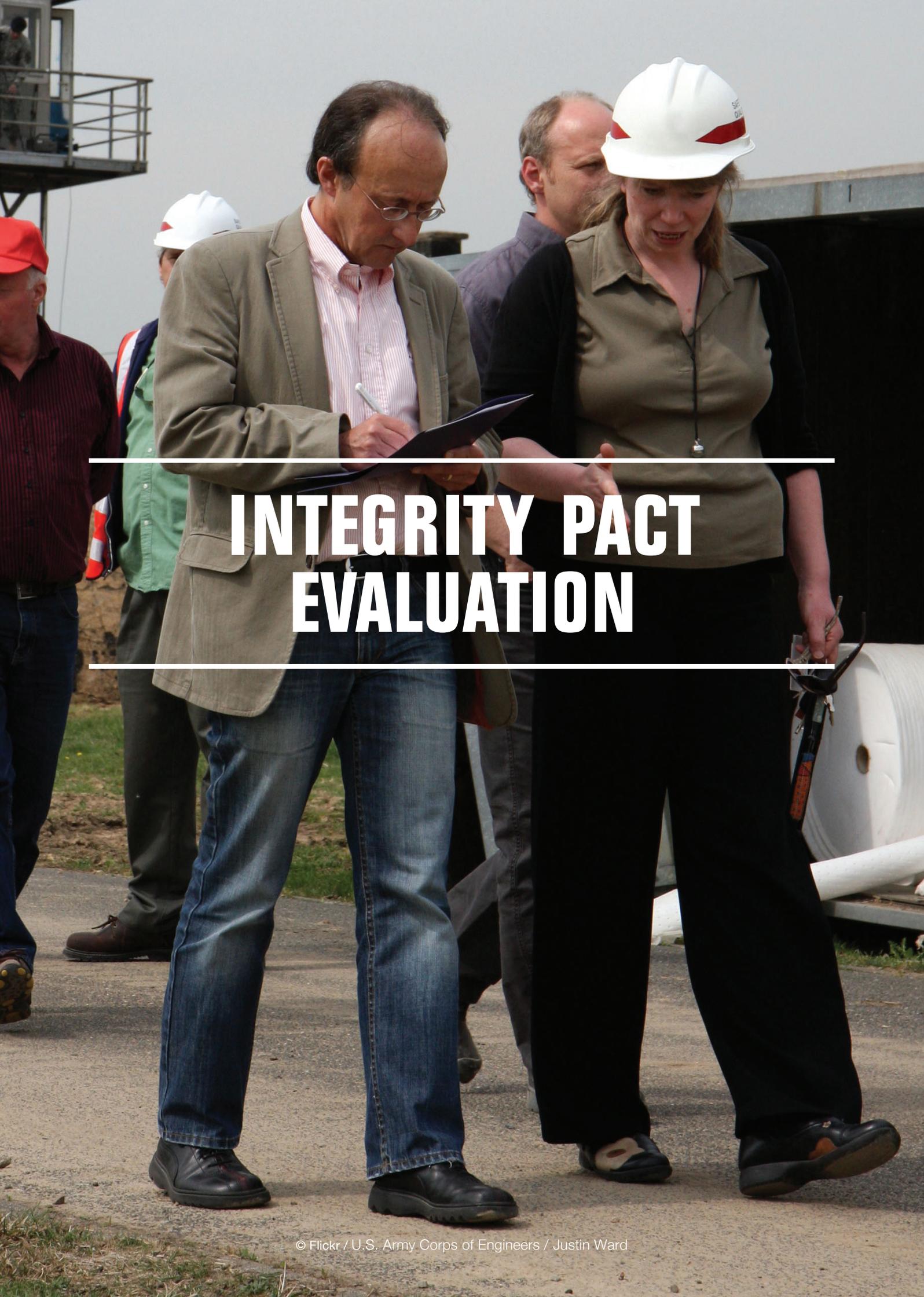
- Transparency International Germany did not enter into a specific agreement with the airport authority, which set out their rights and obligations. The only agreements entered into were between the airport authorities and bidders, and the airport authority and the external monitor who reported directly to the airport authority;
- Transparency International Germany felt that the airport authority had failed on numerous occasions to keep us up-to-date on events including corruption allegations;
- Transparency International Germany felt that the airport authority failed to take steps to address alleged irregularities brought to its attention by Transparency International Germany in June 2013;
- The airport consistently failed to notify Transparency International Germany of enforcement of their compliance activities.

In 2014 a serious conversation took place between Transparency International Germany and the airport authority and it was agreed by both sides that should future concerns be raised directly to the authority, Transparency International Germany would be informed.

Following events which led Transparency International to believe that this commitment was breached, the chapter finally wrote a letter announcing its withdrawal from the Integrity Pact, citing the airport as “not being serious about corruption”.

After five days of silence from the airport authority, Transparency International Germany went to the media to announce the withdrawal in March 2015. There has been no official reaction by the airport authority up to this date. Nevertheless, the media continues to approach Transparency International Germany to comment on the ongoing public procurement process.

Similar to Latvia’s experiences described above, from this experience Transparency International Germany learned that it is necessary to ensure that a thorough written agreement is in place that defines information rights and obligations, as well as the reasons and the process for a potential withdrawal. The flexibility in regard to working with the media must be maintained, and there must be more incentives and sanctions at hand to influence the Integrity Pact implementation in order to avoid the ultimate sanction of withdrawal.



INTEGRITY PACT EVALUATION

HOW DO I KNOW IF I HAVE ACHIEVED MY GOALS?

Making the decision to work on an Integrity Pact, putting in place the structures to do it, engaging with stakeholders, analysing your risks, and communicating about what you are doing is quite a heavy load. It can feel too much to also think about monitoring and evaluating activities on top of all that. Having said that, our experience has been that taking even a small amount of time now and again to pause, step back and look at how we are doing, can add value far beyond the time invested.

Have you ever reached the end of a project and wished you had done some things differently or had realised something sooner? Taking monitoring, evaluation and learning seriously can reduce some of these regrets in future projects. This chapter seeks to share some of our top tips so you can have these in mind as you set up your plans to implement an Integrity Pact.

ADVICE

- **Lacking motivation?** Every one of us has had to deal with that annoying form of reporting to donors where one is forced to count the number of meetings one has had, the number of stakeholders reached and how many publications were disseminated. This experience has left many of us unmotivated in response to the very mention of the words monitoring and evaluation. However, always remember, there are many more benefits for you!
 - » better identify and deal with risks as they arise and before they become critical
 - » make a decision to change direction with confidence when something is not working
 - » reach a decision to do more of something that is having particular success, or seize opportunities as they arise
- **What's in it for you?** Monitoring, evaluation and learning can be so much more than ticking a box for donors. By planning properly, starting early and recognising the benefits for your organisation you can:
 - » help out the wider community of Integrity Pact users by sharing your lessons
 - » identify advocacy opportunities and issues by identifying patterns and trends (see India's experience below)
 - » support the civil society community to make the case for such work and through this raise more funding, build the trust of supporters and motivate other stakeholders to use Integrity Pacts.
- **When to start?** To make the most of monitoring, evaluation and learning, you should start with baby steps from the very first day of your work. During project preparation, defining within your team what you want to change and understanding how you want to change it, can help you design the project's activities and be used as a baseline to compare against again later to see what has changed. This can provide great motivation further along the timeline as you see the changes you have helped to bring about.
- **How often should I monitor?** Incorporating regular monitoring as part of your work plan during project implementation, rather than as an add-on, can help to ensure that you are regularly checking in to see if your activities are leading you in the right direction or if you need modifications. In turn, taking this approach makes end-of-project evaluations so much easier, particularly if you keep good records! Having said that, this advice is like medicine: you know it will make you better but it is hard to take. Making it part of your routine may take some time, so why not start now?
- **When is the best time to evaluate?** Once you are convinced by the benefits of monitoring, evaluation and learning – and can tear yourself away from everyday activities – taking a proper step back at the

mid-way point of your activities to take stock of how far you have come can help breathe new life and direction into your activities for the remainder of the project. Mid-term evaluations can be a good way to take stock of progress. End-of-project evaluations can be less useful in course correction; however, they are most useful for establishing lessons learned for your future work and others using Integrity Pacts will certainly benefit from your experiences.

- **How much effort does it take?** Think baby steps: the actions you take do not need to be big and elaborate. Sometimes having a meeting with your relevant stakeholders and having a guided reflection can tell you what you need to know in order to adjust your work. Don't forget to document these meetings!
- **Where can I get help?** A specific guide for those implementing an Integrity Pact is currently under development. There are, however, a large number of tools online that can help you. In addition, you can find various example evaluations commissioned or conducted by Transparency International over the years on the Transparency International website.

PRACTITIONERS' EXPERIENCES

HOW MONITORING, EVALUATION AND LEARNING IS CARRIED OUT IN INDIA

Monitoring

Having finished a few procurement projects covered by an Integrity Pact, Transparency International India has established a regular evaluation process at the end of each project. Via multiple methods, including an online platform, the chapter collects the opinions of all the participants, bidding companies, the contracting company, and the controlling authorities, about their experiences with the Integrity Pact, the role of the monitor, any problems they faced and other operational issues. We ask the participants to rate whether the Integrity Pact helped make the procurement procedure more transparent, more efficient, build trust, or reduce the legal costs, for example. One recommendation that has been incorporated into the implementation of Integrity Pacts in India is the prioritisation of periodic interactions between the monitor and management of the contracting authority, as well as regular meetings between vendors and monitors. These activities have helped to solidify stakeholder commitment to the Integrity Pacts.

Learning

Transparency International India carried out an evaluation of its work together with the Management Development Institute Gurgaon. The results of this evaluation were invaluable as they uncovered lessons that could be incorporated into the way we design and implement Integrity Pacts. For example, the original Integrity Pact model we used did not envisage that the obligations in the Integrity Pact document should apply to sub-contractors of the winning bidder. As a result, a wide range of actors were falling outside of its coverage. After this discovery, features were introduced into the design of the Integrity Pact document to include sub-contractors within the scope of the Integrity Pact. Now if the sub-contractors do not comply with the Integrity Pact's terms, the contractor will be held responsible. This motivates the winning bidders to take action to ensure their sub-contractors uphold the highest levels of integrity.

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