



From Open to Clean Contracting: A collective agenda to end corruption in public procurement and infrastructure and support sustainable development

Every year, governments, often supported by multinational banks and actors, spend massive sums of money – \$9.5 trillion – through contracts, on everything from pencils and paper to providing basic services such as clinics and schools. Public procurement provides vital goods and services to citizens, and major infrastructure projects require huge investments. Just to meet the Sustainable Development Goals US\$ 93 billion are needed each year. Yet the concentration of money, government discretion and corporate influence makes public contracting and procurement governments' [number one corruption risk](#).

Corruption in public procurement creates significant costs to government, business, and citizens. By 2030, the CoST – the Infrastructure Transparency Initiative suggests that close to [US\\$6 trillion could be lost annually](#) in the construction industry through corruption, mismanagement and inefficiency. It also leads to untold costs to the environment, people's livelihoods and sometimes people's very lives.

According to the [UN Office of Drugs and Crime](#), corruption and fraud may amount to 20-25% of procurement budgets.

57% of foreign bribery cases prosecuted under the OECD Anti-Bribery Convention involved bribes to obtain public contracts. According to a 2013 Eurobarometer survey, more than 30% of companies participating in EU public procurement say corruption prevented them from winning a contract.

When large infrastructure projects are designed and implemented without civil society oversight or the inclusion of affected communities, roads can be built to nowhere, bridges crumble, environments are damaged and communities are displaced. People's lives are on the line.

Clean contracting is contracting that is transparent, accountable to affected communities and taxpayers, and in line with the public good, as embodied by the Sustainable Development Goals.

Foundational Principles

The Clean Contracting Initiative of Transparency International (TI), CoST – the Infrastructure Transparency Initiative, the Open Contracting Partnership (OCP), Hivos and Article19, together with

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its advocacy partners, aims to ensure that public contracting and infrastructure investments are accountable first and foremost to the public interest.

The [Open Contracting Principles](#) provide a framework for affirmative disclosure, participation and accountability that are core to this initiative. In part guided by these principles, there are numerous tools and standards currently available to make public procurement transparent, accountable to the public and more efficient from planning to implementation. Laws, tools, principles and standards for open contracting are foundational to clean contracting but alone are not sufficient to create a genuine clean contracting ecosystem. Citizen-centred tools have proven to be successful in advancing systemic change across the value chain. Such an approach aims to build on locally led coalitions for openness to generate sustainable “clean” contracting outcomes across cities, countries, regions and sectors.

The Five Pillars of Clean Contracting¹

To achieve a clean (corruption-free) public contracting ecosystem, proponents and activists for clean public contracting need to work together more and effectively along the five pillars below.

1. Open Contracting Data Standard (OCDS) and monitoring systems

The entire public contracting process should be opened up, from the planning phase to implementation and monitoring. Data and documents should be published following established standards like the CoST Data Standard and the Open Contracting Data Standard (OCDS). Access to open public contracting data and documents allows citizens, civil society, journalists, businesses and policymakers to scrutinise allocations and expenditures to reduce the possibility of corruption. The creation of feedback loops through open data, smart engagement and infomediaries helps contextualise complex data into actionable information. It also helps even the playing field and open the door to fair competition among potential bidders and provides governments with effective oversight tools for ensuring proper use of taxpayer money.

2. Independent civil society monitoring of specific projects

Integrity Pacts and similar independent monitoring mechanisms are essential to building new lines of trust and cooperation between civil society, public officials and bidders committed to preventing corruption in public contracting. This is essential not only to prevent corruption in particular projects but also to identify what is working and not working in practice throughout the public procurement ecosystem. These monitoring projects need to include effective whistleblower and feedback mechanisms.

3. Effective and meaningful participation by affected communities in all phases of the public procurement process, including the pre-tender phase.

¹ *These are the core pillars that civil society can leverage to push for clean contracting ecosystems. But unlike a “recipe”, the degree to which civil society leans more on one pillar than another will depend on local context and need. The Clean Contracting approach builds on a great deal of experience and learning within and outside the TI movement around what works and what does not work to foster clean contracting. It especially builds on the advances made by work in the field of open contracting data/principles, integrity pacts, and social accountability.*

Many communities are affected by an infrastructure project, including those displaced by or negatively affected, intended beneficiaries, and the workers and subcontractors engaged in delivery. Engaging these affected communities can not only ensure that the procurement actually meets the needs of those most affected but it can also broaden the group of people motivated to identify irregularities in the procurement process and supply chain. Effective and meaningful participation by affected communities can be integrated with other tools, such as impact assessments, which require public consultation in the development of significant projects.

4. A strong, professional and engaged civil society sector

In order to prevent fraud in public procurement, there must be a strong, professional and engaged civil society sector. Civil society must have adequate resources and expertise in order to engage with the public and private sectors to advance an accountable public procurement system. It should not be hampered by laws which restrict its ability to act and promote the public interest.

In addition to civil society, investigative journalism plays a crucial role in exposing fraud and corruption involving public funds. There needs to be local capacity for independent, high quality investigative journalism capable of investigating potential corruption and conflicts of interest relating to public contracts.

At a minimum, civil society and journalists must have space to associate, assemble and express their views without fear of harassment or intimidation.

5. A strong and credible sanctions regime

Public authorities, and multinational actors such as the European Commission or multilateral banks, must have effective sanctions mechanisms like debarment to deter corruption. For example, TI-EU's EU Integrity Study recommends that the European Commission improve its use of discretionary powers to exclude companies from EU public procurement and to make public its database of companies banned (or 'debarred') from tendering. A 'zero tolerance' environment could serve as an effective deterrent in preventing fraud and corruption on the part of a state or private company.

Prioritizing Pillars

Though all pillars are important, civil society does not need to focus on all five at once and may want to focus only on the pillar(s) that are most critical to them in achieving their goals. They may also want to think incrementally and target actions first at one pillar before moving on to another. At all times, the work and the choices made on where to target efforts is about creating conditions and finding opportunities for moving the needle from dirty to clean contracting. Some examples of such prioritisation are set out below.

In a context where some **reform-minded government actors** are in place and **large flows of money are being spent on specific infrastructure projects**, a local strong civil society organisation is well-placed to advocate for an approach that combines **Integrity Pacts** with **strong engagement of affected**

communities. By **working strategically and pro-actively with journalists** (investigative and otherwise) and other “infomediaries” the reach and impact of such CSO efforts is broadened and helps create greater trust between people and those elected officials willing to take a stand for clean contracting.

However, in contexts where there is **no political will for moving towards clean contracts** or capture of a specific sector by corrupt interests, civil society needs to demonstrate its capacity to **mobilize public opinion** as well as instigate stronger investigation and enforcement of local, national and international anti-corruption laws and instruments (e.g. UNCAC) to put the pressure on elected-officials to deliver genuine clean contracting, and in some cases to ensure that corrupt actors from the private and public sector are identified and prosecuted.

This is done by being well-versed on procurement and having the respect and support of citizens and other stakeholders (e.g. a coalition of CSOs on the issue), by ensuring conditions are in place for victims and witnesses of corruption in the sector or project to come forward (e.g. legal advice centers, whistleblower protection regimes) and by supporting investigative journalists to report effectively on corruption cases in public procurement.

A collective agenda

Therefore, Transparency International (TI), CoST – the Infrastructure Transparency Initiative, the Open Contracting Partnership (OCP), Hivos and Article19, together with their partners, aim to achieve:

1. Significantly increased demand on public officials for clean (corruption-free) contracting, especially from the private sector and those communities and groups of people most affected by a procurement process.
2. Public contracting information on the full procurement process from planning to implementation available as re-usable, machine-readable and free-to-use open data by implementing the Open Contracting Data Standard.
3. More effective mechanisms for citizen participation in the public procurement process, especially in local contexts, throughout all phases of public procurement.
4. Strengthened capacity of those who independently monitor and translate contracting information for a wider public such as local civil society organisations, civic activists, investigative journalists.
5. A fair and level-playing field for all business to participate in government contracting through better analysis and information.
6. Increased adoption of publicly available registries of company ownership with linked contract information on the beneficial owners of the companies with whom a government is doing business.
7. Regional and international guidance on implementing standards for more transparent public procurement in line with the Open Contracting Principles.
8. Sector-specific, in-depth guidance for making contracting information transparent especially around high-risk sectors such as extractives, health and infrastructure.
9. More effective public procurement systems at all levels through strategic advocacy that holds governments to account.
10. Wherever possible, a joint commitment by government, business and civil society to work together as a “golden triangle” to implement open contracting.

A priority focus on infrastructure

The G20 has highlighted the US\$1 trillion financing gap that is required to meet the global infrastructure need. The B20 has highlighted the critical role for the private sector in mitigating the risk of corruption and increasing efficiency in procurement for infrastructure in [this year's recommendations to the G20](#) as well. The C20 echoes this concern and calls for an 'observatory on infrastructure and the SDGs' to help provide the information that civil society needs to engage meaningfully in improving the public governance of infrastructure projects. Work on open contracting can help deliver on all of these requests.

Therefore, Transparency International (TI) is working together with Open Contracting Partnership (OCP), CoST – the Infrastructure Transparency Initiative, Hivos and Article19 to support efforts to:

- Reaffirm that public contracts should be awarded and managed openly, accountability and fairly and that public procurement should be made 'open by default' across the lifecycle of public contracts, including implementation and payment, so that citizens and businesses can have a clear public record of how public money is spent;
- Publish better, publicly accessible and timely data on government contracts and projects for infrastructure and services in open and re-useable formats, likely through using the Open Contracting Data Standard and its upcoming infrastructure extension in partnership with the CoST Infrastructure Data Standard. Open data will allow users to connect it to other relevant data across the different stages of public projects;
- Use open contracting data to help identify corruption red flags and conflicts of interest and introduce effective preventive measures to address corruption and increase integrity in public procurement;
- Support independent civil society monitoring of large-scale infrastructure projects through Integrity Pacts and other similar vehicles that help ensure governments are delivering on commitments to transparency, efficient and accountable procurement;
- Publish beneficial ownership information for companies that bid for public contracts in order to identify potential conflicts of interest, reduce the opportunities for collusion between linked companies, create fair competition for companies and ensure full knowledge of who is ultimately benefitting from public money;
- Establish effective and constructive feedback channels, open to stakeholders across government, industry and civil society, and especially affected communities, to ensure decisions are made taking into account the needs of those affected by projects;
- Establish comprehensive, independent validation processes within government to ensure that data is accurate and complete, whilst highlighting any issues of concern for the public, such as through using the CoST Assurance process for specific high value infrastructure projects;
- Support governments around the world in implementing open contracting and provide regional and international guidance on standards in line with the Open Contracting Principles and CoST's guidelines for public infrastructure.
- Build effective multi-stakeholder partnerships between government, industry and civil society to promote collective action and drive the reform process.

By supporting open, clean contracting and the use of the Open Contracting Data Standards, as well as independent monitoring through integrity pacts and social accountability mechanisms, the trillion-dollar world of public procurement can be transformed into savings that help address the infrastructure financing gap, better deals for governments, more opportunities for business, sustainable public procurement, and quality goods and services for citizens.

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