



The Integrity Pact: how it works and what is it good for

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Main takeaways on what the IP is

- Launched in the 1990s: some CA wanted to see a decrease in pp corruption, value for money & quality products & services
- Used in more than 18 countries in all pp sectors: Argentina, Bulgaria, China, Colombia, Ecuador, Germany, Hungary, India, Indonesia, Italy, Latvia, Mexico, Pakistan, Panama, Paraguay, Peru, Rwanda, South Korea and Zambia
- The approach aims to promote **clean public contracting** through **civil society monitoring** and **public engagement**

Main takeaways on what the IP is

- Form: contract establishing the rights and obligations of all the parties to a public contracting process
- Main elements:
 1. Acceptance & engagement with an **independent external expert monitor** who can determine whether the ppp is in line with commitments to transparency, accountability and anti-corruption
 2. CA undertakes that its officials **will not demand or accept any bribes**, gifts or payments of any kind and maintain appropriate disciplinary, civil or criminal sanctions in case of violation
 3. Statement by **each bidder** that it has **not paid, and will not pay, any bribes** in order to obtain or retain the contract
 4. Contractor undertakes to **disclose all payments** made in connection with the contract in question
 5. Contractor explicitly accepts that the commitments and obligations remain in force **until the contract has been fully executed**
 6. A **set of sanctions** for all parties for any violations of the IP contract
 7. A mechanism for **dispute resolution**

Main takeaways on what the independent monitor does

- Has to be completely independent from the CA/bidders/winner
- Main tasks: detection, follow-up & remedy 'red flags' + regular reports on the transparency and fairness of the ppp
- However: not a punitive, but a constructive approach
- Supports good practices within the CA & private sector actors by raising recommendations for changed policies, processes or practices
- Reaches out to, supports and engages the (affected) public to hold public officials & private actors involved in public contracting to account

Our work so far

- 3 pp contracts in the field of information, communication and publicity in cooperation with the Managing Authority of the Operational Programme for Administrative Capacity (2014-2020):
 1. Studies and analyses to measure the level of satisfaction & information of MA OPAC (potential) beneficiaries (estimated value 266,625 EUR);
 2. Organisation of communication and information events for MA OPAC (1,088,720 EUR) ;
 3. Training services for MA OPAC beneficiaries (244,406 EUR)
- Extensive talks with CA & National Procurement Agency
- Experienced major delays in signing the IP b/c of political instability + high degree of cautiousness from civil servants fueled, in part, by the recent anticorruption crackdown
- Main takeaways: **IP judged solely on the letter, not the spirit of the law + fear of Court of Audit & complaints from bidders**

Our work so far

- Form: IP separated in two documents:
 1. Memorandum of Cooperation (rights & obligations of AMPOCA and RAS);
 2. Integrity Pact (AMPOCA, RAS and the Contractor) to be signed after the winner is selected
- Bidders:
 - not directly engaged since no contact can occur + single online round → IP info in ToR & questions answered via CA
 - can opt in when handing in the offer → white list & its dissemination as incentive for accession
 - commit to behave ethically (no bribes, no collusion)
 - offers reviewed after the evaluation procedure
- Monitor not allowed during Evaluation Committee talks, review made only after decision publication
- Contractor:
 - not obliged to sign, but monitoring through CA; if yes, IP clause inserted in the procurement contract
 - provide access to all documents, payments made, activities
 - present/commit to elaborate a code of conduct/internal policy on 0 tolerance towards corruption, conflicts of interest prevention
 - enhanced transparency (publish names contract team, business model, integrity policy, risk evaluation, nonfinancial performance indicators, subcontractors)

Our work so far

- Strong dispute resolution mechanism & whistleblowing
- Monitoring reports & public statements reviewed by CA before publishing
- Confidentiality agreements signed
- May 2018: started monitoring the pre-tender phase of the 1st contract “Studies and analyses to measure the level of satisfaction & information of MA OPAC (potential) beneficiaries”
- Provided non-binding recommendations on documents such as the tender specifications & the contracting strategy
- Engaging stakeholders: talks with BRAT (Romanian media audit association) to update a set of standardised rules for pp in media & advertising → CAs in general can use them as evaluation criteria for communication products and services

Good practice examples from colleagues

Italy:

- IP recognized as exclusion criteria in Anti-Corruption Law (190/2012): “Contracting authorities may provide in the tender notices or letters of invitation, that non-compliance of the provisions contained in the protocols of legality or in integrity pacts is a cause for exclusion from the bid.”
- 62% capital cities & 85% provinces implement IPs
- Lombardy (trainings) & Sardinia (tramway extension):
 - IP part of tender documentation, all bidders obliged to sign
 - monitor allowed to be present during the evaluation phase
 - violation of the IP as an explicit condition to the forfeiture of the bid security bond
 - recommendations made on selection criteria for the Evaluation Committee, streamlining the evaluation & needs specification by using e-government tools

Good practice examples from colleagues

Poland:

- Railway construction project:
 - IP part of procurement contract, contractor obliged to sign
 - monitor can participate in the Evaluation Committee, no right to vote
 - Confidentiality agreements signed
 - (Sub)contractor(s) obliged to implement ethical management tool & whistleblower policy since no sanctions could be imposed through IP
 - Recommendations on the ToR, lack of environmental permits in tender docs, conflicts of interest during evaluation
 - Monitor supported the CA against a complaint from a bidder on transparency

Thank you!

TI-S project website:

<https://www.transparency.org/programmes/overview/integritypacts>

RAS project website: <http://www.romaniacurata.ro/contracte-curate/>

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