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Policy positions

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POLICY POSITIONS
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TRANSPARENCY INTERNATIONAL
the global coalition against corruption

TI's Minimum Standards for Public Contracting

Transparency International's Minimum Standards for Public Contracting provide a framework for preventing and reducing corruption based on clear rules, transparency and effective control and auditing procedures throughout the contracting process. The standards focus on the public sector and cover the entire project cycle, including needs assessment, design, preparation and budgeting activities prior to the contracting process, the contracting process itself and contract implementation. The standards extend to all types of government contracts, including:

- procurement of goods and services
- supply, construction and service contracts (including engineering, financial, economic, legal and other consultancies)
- privatisations, concessions and licensing
- subcontracting processes and the involvement of agents and joint-venture partners.

Public procurement

Authorities should:

1. Implement a code of conduct that commits the contracting authority and its employees to a strict anti-corruption policy. The policy should take into account possible conflicts of interest, provide mechanisms for reporting corruption and protecting whistleblowers.

2. Allow a company to tender only if it has implemented a code of conduct that commits the company and its employees to a strict anti-corruption policy. [1]

3. Maintain a blacklist of companies for which there is sufficient evidence of their involvement in corrupt activities; alternatively, adopt a blacklist prepared by an appropriate international institution. Debar blacklisted companies from tendering for the authority's projects for a specified period of time.

4. Ensure that all contracts between the authority and its contractors, suppliers and service providers require the parties to comply with strict anti-corruption policies. This may best be achieved by requiring the use of a project integrity pact during both tender and project execution, committing the authority and bidding companies to refrain from bribery.

5. Ensure that public contracts above a low threshold are subject to open competitive bidding. Exceptions must be limited and clear justification given.

6. Provide all bidders, and preferably also the general public, with easy access to information about:

- activities carried out prior to initiating the contracting process
- tender opportunities
- selection criteria
- the evaluation process
- the award decision and its justification
- the terms and conditions of the contract and any amendments
- the implementation of the contract
- the role of intermediaries and agents
- dispute-settlement mechanisms and procedures.

Confidentiality should be limited to legally protected information. Equivalent information on direct contracting or limited bidding processes should also be made available to the public.

7. Ensure that no bidder is given access to privileged information at any stage of the contracting process, especially information relating to the selection process.

8. Allow bidders sufficient time for bid preparation and for pre-qualification requirements when these apply. Allow a reasonable amount of time between publication of the contract award decision and the signing of the contract, in order to give an aggrieved competitor the opportunity to challenge the award decision.

9. Ensure that contract 'change' orders that alter the price or description of work beyond a cumulative threshold (for example, 15 per cent of contract value) are monitored at a high level, preferably by the decision-making body that awarded the contract.

10. Ensure that internal and external control and auditing bodies are independent and functioning effectively, and that their reports are accessible to the public. Any unreasonable delays in project execution should trigger additional control activities.

11. Separate key functions to ensure that responsibility for demand assessment, preparation, selection, contracting, supervision and control of a project is assigned to separate bodies.

12. Apply standard office safeguards, such as the use of committees at decision-making points and rotation of staff in sensitive positions. Staff responsible for procurement processes should be well trained and adequately remunerated.

13. Promote the participation of civil society organisations as independent monitors of both the tender and execution of projects.

References:

[1] The Business Principles for Countering Bribery, developed by Transparency International and Social Accountability International, provide a framework for the development of an effective anti-corruption policy . See **www.transparency.org/building_coalitions/private_sector/business_ principles.html**

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