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[Global Corruption Report 2005] Introduction

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Introduction

Peter Eigen, Chairman, Transparency International

Corruption doesn't just line the pockets of political and business elites; it leaves ordinary people without essential services, such as life-saving medicines, and deprives them of access to sanitation and housing. In short, corruption costs lives.

Nowhere is corruption more ingrained than in the construction sector, the focus of Transparency International's *Global Corruption Report 2005*. From the Lesotho Highlands Water Project (page 31) to post-conflict reconstruction in Iraq (page 82), transparency in public contracting is arguably the single most important factor in determining the success of donor support in sustainable development. Corrupt contracting processes leave developing countries saddled with sub-standard infrastructure and excessive debt.

Building a world free of bribes

However ingrained corruption seems, it can be beaten. Transparency International (TI) has pioneered the no-bribes Integrity Pact, which includes sanctions such as blacklisting if a bidder for a public contract breaches the no-bribes agreement (page 59). Now used in more than 20 countries around the world, in 2003–04 TI's campaigning bore fruit on a global level. The Integrity Pact is increasingly being used by multilateral development banks, a major breakthrough that will bring tremendous benefits to ordinary people in the developing world.

In September 2004 the World Bank announced a decision to require companies bidding on large Bank-financed projects to certify that they 'have taken steps to ensure that no person acting for [them] or on [their] behalf will engage in bribery'. This breakthrough is evidence of the increasing impact of the anti-corruption movement in shaping the global agenda.

Another initiative of TI (together with Social Accountability International and a group of international companies), the Business Principles for Countering Bribery, offers companies practical guidance on how to prevent corruption throughout their operations. In January 2004 at the World Economic Forum in Davos, 19 leading international companies took a major step towards building a corruption-free construction sector when they signed up to Business Principles customised for the engineering and construction industries (see page 49).

The costs of corruption

These and other initiatives are essential if we are to build a world free of bribes. More than US $4 trillion is spent on government procurement annually worldwide. From the construction of dams and schools to the provision of waste disposal services, public works and construction are singled out by one survey after another as the sector most prone to corruption – in both the developing and the developed world. If we do not stop the corruption, the cost will continue to be devastating.

Most horrifically, the cost will be lives lost. In the past 15 years alone, earthquakes have killed more than 150,000 people. As James Lewis writes, '[e]arthquakes don't kill people; collapsing buildings do' (page 23). Examples from Turkey and Italy demonstrate that buildings often collapse because building and planning regulations are ignored – and regulations are often ignored because bribes have been paid to bypass them.

In economic terms, research gathered by Paul Collier and Anke Hoeffler (page 12) demonstrates how corruption raises the cost and lowers the quality of infrastructure. Corruption also slows down development, reducing long-term growth rates. In short, corruption has the potential to devastate emerging economies.

Corruption in the construction sector not only plunders economies; it shapes them. Corrupt government officials steer social and economic development towards large capital-intensive infrastructure projects that provide fertile ground for corruption, and in doing so neglect health and education programmes. The opportunity costs are tremendous, and they hit the poor hardest. Were it not for corruption in construction, vastly more money could be spent on health and education and more developing

countries would have a sustainable future supported by a functioning market economy and the rule of law.

Corruption also steers public spending towards environmentally destructive projects. Peter Bosshard (page 19) points to 'monuments of corruption' the world over – huge construction projects that went ahead only because bribes were paid and environmental standards were not applied. The Yacyretá dam in Argentina, the Bataan nuclear power plant in the Philippines and the Bujagali dam in Uganda have all been subject to allegations of the improper diversion of money. Too frequently, corruption results in redundant infrastructure projects with potentially disastrous environmental consequences.

The bricks and mortar of corruption

The list of construction projects plagued by corruption is a long one. The *Global Corruption Report 2005* presents case studies from Lesotho (page 31) and Germany (page 51), while the country reports on China, Costa Rica, the Czech Republic, Norway and others all cite allegations of corruption in construction during 2003–04.

Neill Stansbury describes (page 36) how the characteristics of the construction sector slant it towards corruption: the fierce competition for 'make or break' contracts; the numerous levels of official approvals and permits; the uniqueness of many projects; the opportunities for delays and overruns; and the simple fact that the quality of much work is rapidly concealed as it is covered over by concrete, plaster and cladding.

Too often, international investors and financial institutions are also culpable in supporting corruption. An over-readiness to lend against a background of weak oversight and accounting safeguards has led the World Bank and regional development banks to invest heavily in projects that have been subject to allegations of corruption. Export credit agencies (ECAs) – semi-governmental agencies that provide guarantees and insurance for domestic companies seeking business abroad – have also been heavily criticised for lack of transparency and their willingness to continue working with construction companies known to be corrupt. As Susan Hawley argues (page 55), multilateral development banks and ECAs have an impact and responsibility far beyond the sums of money they themselves invest, not least because the guarantees they issue help mobilise private sector investment.

Rebuilding after war

Corruption in public contracting seems particularly intractable in post-conflict situations, marred by weak government structures, thriving black markets, a legacy of patronage, the sudden influx of donor funds, and the need to 'buy' the shortterm support of former combatants. From Iraq to Afghanistan, from Cambodia to the Democratic Republic of Congo, time and again the lessons of the past are ignored and corruption is allowed to thrive in the wake of conflict.

Recognising how tragically frequent conflicts are around the world, the *Global Corruption Report 2005* contains a special feature on corruption in post-conflict reconstruction. Philippe Le Billon examines the nature of corruption in post-conflict situations (page 73), and points to the particular damage it can do, undermining both peace-building efforts and the rule of law, storing up serious long-term problems.

The need for anti-corruption measures is particularly acute in the first years after conflict. As Reinoud Leenders and Justin Alexander argue in their case study of Iraq (page 82), strong and immediate measures to curb corruption will be essential when the real spending on reconstruction starts. Without a systematic commitment to transparency in the reconstruction process, Iraq is at risk of becoming the biggest corruption scandal in history. The consequences for ordinary people will be immense and long-lasting.

Concrete reforms are needed

To combat corruption within the construction sector, all actors need to be involved. Company shareholders, professional trade bodies and civil society organisations all have a part to play in exposing and combating malpractice (see recommendations on pages 65–70).

First and foremost, however, it is governments that bear the greatest responsibility for ensuring the honest and transparent management of public funds. The *Global Corruption Report 2005* launches TI's Minimum Standards for Public Contracting (see box), a baseline for all governments, both for public works and far beyond. As with all anti-corruption measures, getting the rules right is only a first step. As many of the *Global Corruption Report*'s country reports show, enforcement rarely matches up to the standards to which governments pay lip-service.

Private sector anti-corruption initiatives have been implemented under the auspices of the World Economic Forum (page 49) and by the International Federation of Consulting Engineers (page 40) in attempts to bolster standards. While laudable, such initiatives need to be implemented wholeheartedly and taken up right across the sector. Otherwise, they will remain merely good intentions and will not succeed in creating a level playing field.

International financial institutions have also taken steps to implement reforms. The World Bank, for example, has started to blacklist companies known to be corrupt (page 59). While this is significant progress, it is essential to ensure the adoption of debarment systems by all the regional development banks as well. ECAs are also in urgent need of reform. While they increasingly acknowledge what good practice requires of them, concrete actions are still required. All international financial institutions have a special responsibility to carry out due diligence on the projects and companies for which they provide backing.

Corruption cannot be overcome without political will and courageous leadership. Politicians and government officials are in a position to show that leadership, but civil society must also be ready to monitor their actions, to check that they keep their promises and hold them to account.

Our vigilance will do more than improve government finances and the quality of investments in construction and infrastructure projects. It will ensure public money is used for the public good, and it will save lives.

The *Global Corruption Report 2005* opens with a tribute to one individual, Satyendra Dubey, who was murdered after he courageously spoke out against corruption in the construction of a massive highway project in India. At the Transparency International Integrity Awards 2004, a special posthumous tribute was paid to Dubey in recognition of his contribution to the fight to rid the world of corruption.

Transparency International'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 serviceproviders 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 decison-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.

Note

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).