

Public-private dialogue as a tool for preventing corruption: UNODC's public-private partnership projects around the world

Corruption is a crime with far reaching consequences for both businesses and government. Due to the differing scopes and strategic objectives of the public and private sectors, there can be a lack of communication and coordination in addressing this common concern. The United Nations Office on Drugs and Crime (UNODC), with its expansive network of field offices and wealth of experience in providing technical assistance, is implementing a number of projects focusing on public-private dialogue as a critical tool for strengthening anti-corruption efforts.

With funding from the Siemens Integrity Initiative, UNODC launched projects in 2011 which aim to enhance global knowledge and public-private dialogue on two key issues: integrity in public procurement systems and strengthening incentives for corporate integrity and cooperation. Activities are implemented in India, Mexico and at the global level.

Public-Private Partnership for Probity in Public Procurement

According to estimates, governments around the world spend, on average, 15% of their Gross Domestic Product on the purchasing of goods and services. With such large amounts of money at stake, it is a system highly vulnerable to corruption. In order to secure lucrative contracts private companies may bribe government officials. Likewise, officials seeking to supplement their income may request kick-backs or look the other way when the goods delivered are not as per specification.

The United Nations Convention against Corruption (UNCAC) requires governments to establish systems of procurement based on transparency, competition and objective criteria in decision-making that are effective in preventing corruption. Governments are to ensure that there is public distribution of information, clearly established conditions for participation, selection and award, objective criteria for decision-making, effective systems of review, appeal and remedies, as well as trained personnel working on procurement.

Recognizing that corruption in public procurement involves close interaction between the public and private sectors, it is a key area where public-private dialogue can create opportunities for increased understanding of the issue and a more coordinated response.

In India and Mexico, UNODC has established working groups comprised of relevant government ministries and departments, as well as chambers of commerce, business associations, private companies, and civil society organizations to support the review of legislative frameworks in these countries and to propose recommendations for enhancing transparency and integrity in public procurement systems. Extensive information on the day to day challenges, successes and good practices in relation to public purchasing has been collected through surveys and interviews with the public and private sectors. Findings reveal that there is a need for skills development and awareness raising amongst public procurement officials on international anti-corruption standards, as well as on how to effectively put laws into practice. Private companies may also benefit from increased awareness on procurement procedures, their rights and how to challenge decisions, should procedures not be followed correctly. UNODC is currently implementing training for hundreds of government and company procurement officers in India and Mexico to strengthen the integrity of procurement systems and prevent corruption.

Guidebook on Anti-Corruption in Public Procurement and the Management of Public Finances

Building upon successes in India and Mexico, UNODC has developed a guidebook which serves as a reference material for governments, international organizations, the private sector, academia and civil society, by providing an overview of good practices in ensuring compliance with article 9 of UNCAC. The guidebook analyzes the requirements of UNCAC and provides a list of questions governments may consider when assessing their compliance with the requirements of the Convention. It also reviews the flow of the entire public procurement cycle, maps important corruption risks and provides examples of responses to those risks. Case examples from around the world are used to demonstrate good practices and common challenges.

The Guidebook is available at the United Nations Office on Drugs and Crime's corruption homepage at:
<http://www.unodc.org/unodc/en/corruption/publications.html>.

Legal Incentives for Corporate Integrity and Cooperation

Corruption is a crime involving both government and the private sector. Much has been done to strengthen integrity within governments and amongst public officials, but less emphasis has been placed on effectively preventing corruption within the private sector. While many companies, in particular large or multi-national companies, have moved towards the development and enforcement of integrity, compliance and anti-corruption programmes within their companies, thus far governments have been uncertain about what steps they can take to promote integrity and the reporting of corruption in the private sector.

The UN Convention against Corruption does not contain one specific provision relating to corporate integrity. Instead, there are several provisions that governments are required to enforce or consider enforcing to strengthen corporate integrity and encourage companies to come forward and report incidence of corruption to authorities. Of specific relevance are articles pertaining to the private sector, liability of corporations for acts of corruption (i.e. corporate criminal liability), protection measures for witnesses, experts and victims, as well as reporting persons (whistle-blowers), mechanisms for cooperation with national authorities, and cooperation with the private sector. UNCAC encourages governments to implement systems of incentives and sanctions to enhance integrity and the reporting of corruption.

In India and Mexico, UNODC has been working closely with relevant ministries, as well as private sector actors to assess what systems are in place to incentivize corporate integrity and to sanction wrongdoings. The findings of the studies correspond with global trends – governments focus more on sanctioning corruption than on incentivizing integrity. To promote a broader, more comprehensive approach, UNODC is working with partners to make recommendations on legal reform, raise awareness amongst the corporate sector and governments on good practices, and conduct joint training programmes on topics such as compliance programmes, channels for reporting corruption, the rights and responsibilities of reporting persons, and reward systems for those coming forward to report.

A Resource Guide on State Measures for Strengthening Corporate Integrity

As the concept of incentives is new to most countries around the world, UNODC has developed a resource guide which provides a comprehensive overview of sanctions and incentives available to governments to promote and strengthen corporate integrity. Findings reveal that the most comprehensive approach governments can take involves a mixture of sanctions and incentives. Some of the more effective sanctions for punishing corporate companies, which can also serve as a deterrent for future acts include: company and individual fines, imprisonment of executives and/or responsible individuals, confiscation of the profits obtained through corrupt means, suspension and debarment of companies and individuals, liability for damages caused to other competitors and reputational damages.

Incentives which have proven effective in several countries include: mitigating penalties for companies that come forward and report internal wrongdoings, providing preferential consideration in procurement contracts or offering reputational benefits to companies demonstrating strong compliance and anti-corruption programmes.

Recently, some governments have been introducing other, non-legislative schemes to promote integrity, such as integrity pacts signed by companies bidding on government tenders, and other initiatives requiring that integrity codes of conduct be adopted by companies.

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