



## Building on Sand: The importance of oversight in fighting corruption within the construction sector

*“The value of global construction is expected to grow to \$12 trillion by 2020, but it is estimated that up to a third of this investment could be lost through corruption, mismanagement and inefficiency.”*

**Construction Sector Transparency Initiative**

The construction sector is both a catalyst for and a driver of development. It is also one of the most corrupt sectors in the global economy—Transparency International estimates that between 10 and 30 per cent of funds invested in public infrastructure projects are lost to corruption.<sup>1</sup>

Corruption in the construction sector ranges from billing for higher-grade materials not actually used to offering bribes to gain lucrative contracts. The costs of corruption to tax payers are sufficiently high that efforts at curbing them can often pay for themselves.

It is a phenomenon that knows no boundaries and affects countries regardless of their economic status. As exemplified in India, not only is there a linkage between corruption and regulation; there is a linkage between election cycles and liquidity in the construction sector, which suggests a link between political corruption and the construction sector.<sup>2</sup> Meanwhile, in Canada, public safety officials have raised the alarm about the “moderate to high risk of corruption and organized criminal activity”<sup>3</sup> in the construction sector.

Steps should be taken to eliminate opportunities for corruption and organized crime to undermine the potential benefits of public investments in infrastructure. Parliamentarians have an important role to play—they are the gatekeepers responsible for building the frameworks for integrity and providing oversight of public investments in infrastructure.

Understanding the vital importance of the construction sector in public service delivery and economic development, GOPAC encourages parliamentarians from all political stripes to take a firm stand on ensuring integrity in public procurement and preventing the reach of organized crime.

## Procurement and Project Controls

Controls, when in place, can significantly reduce the opportunities for corruption. Controls can be financial or non-financial in nature. Common to any effective control is the ability to deter corrupt behaviour at key decision points along an approvals process.

One common control is a well-designed public procurement framework that aims to prevent corruption by providing reference points or “check points” to facilitate investigations when something is suspected to have gone wrong. Combining a well-designed framework with audits and protocols that reach beyond procurement supports transparent project implementation.

Parliamentarians do not provide direct oversight of procurement processes and projects; however, they are responsible for ensuring that reliable controls are in place. Parliamentarians should make themselves aware of the range of controls that exist, the best practices available, and the potential strengths and weaknesses of each in providing oversight of public infrastructure projects.

## Beyond the Financial Audit

Financial audits are necessary but not sufficient. The complexity of construction projects and the potential for corruption schemes to go unnoticed, without a deeper scrutiny of the physical deliverables, warrants more stringent standards of accountability. Performance audits are technical audits conducted by qualified construction or engineering professionals trained in the art of cross-verification between financial reporting and physical reality. They provide improved cross-verifiable data with which parliamentarians can fulfill their oversight role.

Many jurisdictions do not mandate performance audits nor maintain a ready pool of qualified technical auditors. In these cases, they would need a regulatory framework to set the foundation for training and establish professional standards. Parliamentarians are responsible for developing the legislation to clear the path for such regulatory measures.

## Project Cycle: What to Oversee and When?

Oversight of public infrastructure projects does not begin and end with procurement nor is it sufficient to focus exclusively on project implementation; a complete project cycle approach which considers the planning and implementation phases is necessary. In the planning stages, corruption can result in faulty needs assessments and budgeting for unnecessary infrastructure investments. Therefore, safeguards against corruption need to be in place prior to the beginning of the formal procurement process.

## Recommended Resources

- Curbing Corruption in Public Procurement: A Practical Guide [http://www.transparency.org/whatwedo/pub/curbing\\_corruption\\_in\\_public\\_procurement\\_a\\_practical\\_guide](http://www.transparency.org/whatwedo/pub/curbing_corruption_in_public_procurement_a_practical_guide)
- Global Infrastructure Anti-Corruption Centre (GIACC) <http://www.giaccentre.org>
- Construction Sector Transparency (CoST) Initiative <http://www.constructiontransparency.org/home>
- Integrity Pacts – Transparency International [http://www.transparency.org/whatwedo/tools/integrity\\_pacts/4/](http://www.transparency.org/whatwedo/tools/integrity_pacts/4/)
- Guidance Note 6: Designing a Disclosure Process <http://www.constructiontransparency.org/documentdownload.axd?documentresourceid=31>
- Position Paper: Improving Oversight in the Management of Development Aid [http://gopacnetwork.org/Docs/PositionPapers/PP\\_GTFPO\\_EN\\_WEB.pdf](http://gopacnetwork.org/Docs/PositionPapers/PP_GTFPO_EN_WEB.pdf)

1. Transparency International (2005), 'Global Corruption Report 2005', Transparency International, Berlin
2. [http://www.cgdev.org/files/1425795\\_file\\_Kapur\\_Vaishnav\\_election\\_finance\\_India\\_FINAL.pdf](http://www.cgdev.org/files/1425795_file_Kapur_Vaishnav_election_finance_India_FINAL.pdf)
3. Public Safety Canada: Organized Crime Research Brief no. 27
4. <http://www.fntrac.gc.ca/publications/brochure/06-2008/1-eng.asp>

To implement large infrastructure projects, governments are increasingly relying on public-private partnerships (PPPs). PPPs can be especially susceptible to corruption because the complexity of relationships between the parties can lead to “conflicts of interest” and influence meddling. This is especially true in municipalities where regulatory frameworks do not exist, or are not enforced. During the implementation phase corrupt actions could include modifying deadlines, through alterations to building requirements and therefore contractual terms, to intentionally avoid paying hefty penalties.

To reduce the risk of corruption in infrastructure projects parliamentarians must focus on oversight from project selection, design, financing, procurement all the way to implementation.

### **Building Elections, Developing Governance**

The connection between corruption and election financing has been well documented yet election financing often remains under-regulated.

The political economy of elections—election financing—is vulnerable to influence by organized crime. In the construction sector, organized crime and other corrupting forces can attempt to circumvent their crimes by currying favour with elected officials.

To inoculate against the perception of corruption, and to reduce potential for conflicts of interest politically exposed persons (PEPs)<sup>4</sup> should not be involved in making decisions regarding investments in public infrastructure. Parliamentarians should avoid even the perception of influence while providing oversight of public investments in infrastructure. Strong codes of conduct and ethics are instrumental in avoiding conflicts of interest.

Improvements in governance can reduce the risk of losses to corruption. For this reason, projects financed through international aid programs and loans from multilateral banks include measures intended to prevent “losses”; however, when political influence or PEPs gain high-level access, corruption can often go undetected. Due diligence, on the part of financial institutions and donor agencies, compliments the oversight provided by parliamentarians and civil society groups. Donor agencies should work collaboratively with parliamentarians to assure all sources of funding for infrastructure are accountable to parliamentary oversight mechanisms.

### **A Perspective from Ukraine: Confronting the Influence of High-Level Access and PEPs**

Parliamentary control, if professionally executed jointly with investigative journalists and civil society, can trigger an appropriate response from law enforcement agencies to revelations of corruption in the construction sector. In Ukraine, systemic interventions on the part of a few parliamentarians into the causes of corruption in public procurement helped to prevent millions of dollars from being syphoned out of the state budget. Moreover, parliamentary control helped to highlight corruption loopholes in existing public finance legislation. Parliamentarians were also involved in drafting adequate legislative changes for closing those loopholes. Even in countries where private interests have tended to influence government decision making, a few parliamentarians, when focused on the issues of public finance, including public contracts in construction, can effect long-term, systemic, and irrevocable changes.

This position paper was co-authored by GOPAC Program Directors Jean Pierre Chabot and Dr Lesley Burns, with the support of the members of GOPAC's Parliamentary Oversight Global Task Force (GTF-PO).

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For more information on this position paper or GTF-PO, please contact: info@gopacnetwork.org.

## Recommendations

- Draft legislation and review regulatory measure to set the foundations for performance audits of large and small public infrastructure projects.
- Draft and support legislation that facilitates the work of law enforcement agencies in preventing infiltration of organized crime into the construction sector.
- Support the work of initiatives like Transparency International's Integrity Pacts in Public Procurement and the Construction Sector Transparency Initiative.
- Approach oversight of public infrastructure investments from a project cycle perspective that includes risks of corruption in project selection, design, financing, procurement and implementation.
- Identify the areas of risk that require stronger controls and anti-corruption measures to increase the overall integrity of public investments in infrastructure.
- Support reforms that strengthen international best practice in procurement, i.e. organizational and project controls aimed at increasing transparency and facilitating oversight.
- Put in practice the spirit, not only the text, of parliamentary codes of ethics and conduct and avoid even the perception of conflicts of interests.
- Draft and support legislation that tightens and strengthens the rules surrounding the financing (in particular, corporate and union sources) of political campaigns and parties during elections.
- In countries that receive donor funds for public infrastructure, parliamentarians should push for those funds to be included in the national budget to assure greater accountability.
- Ensure that periodic progress reports on donor-funded infrastructure projects are tabled before parliament in the same manner government-funded projects are reported on.

*Bribery, fraud, cartels and other corrupt practices in relation to the design, financing, procurement and implementation of construction projects can result in higher prices, inappropriate projects, and safety and quality issues, all of which contribute to lower levels of development and increased poverty. GIACC joins GOPAC in urging all parliamentarians worldwide to ensure that corruption and its consequences are minimised by the implementation of better controls and greater transparency on construction projects in their countries.*

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*Parliamentarians have a responsibility to ensure that there is effective oversight at each stage of public infrastructure projects. GOPAC has outlined a number of measures that contribute towards greater transparency and accountability and help to reduce the risk of corruption and mismanagement in infrastructure investment. CoST urges all parliamentarians to persuade their respective Governments to adopt these measures that can help deliver better value infrastructure for their electorates.*

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GOPAC is a worldwide alliance of parliamentarians working together to combat corruption, strengthen good government, and uphold the rule of law. Based in Ottawa, Canada, GOPAC has 50 national chapters on 6 continents. GOPAC supports its members' efforts through original research, global anti corruption capacity building, and international peer support.

