

Citizens Against Corruption



TRANSPARENCY INTERNATIONAL INDIA



“--the Central Vigilance Commission has taken many initiatives in improving transparency in the procurement process in government and public sector undertakings, including introduction of an Integrity Pact for high value transactions.”

Extract from Prime Minister address for CBI and
State Anti-Corruption Bureaux on 26 Aug. 2009 at Vigyan Bhavan

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What is Integrity Pact?

The Integrity Pact (IP) is a tool developed in 1990s by Transparency International (TI) to help governments, businesses and civil society to fight corruption in public contracting and procurements. TI India (TII) came into existence as a national chapter of TI in 1997. It is advocating IP since August 2001. The IP establishes mutual contractual rights and obligations to reduce the high procurement cost and adverse effects of corruption. It covers all contract-related activities from pre-selection of bidders, bidding, contracting, implementation, completion and operation. Thus, IP is intended to make public contracting and procurement transparent by binding all to ethical conduct. It also envisages a monitoring role for the civil society which is the ultimate beneficiary of such action.

IP consists of a process of signing an agreement between the Principal (i.e. the company implementing the IP) and bidders for a contract. It contains commitment to the effect that neither side will pay, offer, demand or accept bribes, or collude with competitors to obtain the contract or while carrying it out. Besides, bidders will disclose all commissions and other payments made by them to anybody in connection with the contract. Sanctions will apply in case violations occur. The IP also introduces a monitoring system that provides for independent external oversight and accountability.

The IP was first introduced in India in 2006 with the support of Central Vigilance Commission (CVC). The Second Administrative Reforms Commission (ARC) has also supported the concept of IP for controlling corruption in contracting. The Prime Minister in his address on August 26, 2009 to CBI and State Anti-corruption Bureaux mentioned IP as a tool to curb corruption. Since 2006, 40 Central Public Sector Undertakings (PSUs) have signed MoUs with TI India committing for adoption of IP. As reported by various PSUs, it has proved an effective tool in tackling the malpractices in procurements.

The Ministry of Defence

In its Procurement Policy for 2008, the Ministry of Defence (MoD) committed to adopt IP in defence deals of Rs. 100 crores & over and Rs. 20 crores & over in its industrial enterprises.

Features of Integrity Pact

- A Pact (contract) is entered into by the Principal (an institution inviting public tenders for the supply, consultancy, construction and/or any other service) and the Counter-party (bidders, contractors or the suppliers).
- The Principal and the Counter-party commit that they would not demand or accept any bribe or gift. The Principal agrees that its officials would not do so. They would be subject to disciplinary or criminal sanction in case of violation. Similarly, the bidder assures that it would not pay any bribe in order to obtain and retain this contract.
- Independent External Monitor (IEM), who is a person of impeccable integrity and has domain knowledge of tendering/contracting processes, is appointed to oversee IP's implementation and its effectiveness. The panel of IEMs is approved by Central Vigilance Commission (CVC).
- IEM's advice is used as a conflict resolution mechanism.
- A set of sanctions of any violation by a bidder of its commitments or undertakings.

How Integrity Pact works?

- Drafts of the MoU and the Integrity Pacts are prepared by the Principal and approved by the Central Vigilance Commission (CVC) and the TII.
- A MoU is signed between the Principal and the TII.
- Commitment is obtained from all senior officials of the Principal to implement the IP program.
- In case there are subsidiaries of the Principal, they are advised to follow IP of the Principal.
- Proposal is submitted for IEMs appointment by the Principal for approval of CVC and TII.
- Displaying the IP, particulars of IEMs along with their contact numbers and E-mail IDs, and MoU signed with TII on the website of the Principal.
- Periodic review and evaluation of IP's implementation and its effectiveness through:

- conducting an annual assessment of IP by the IEMs, senior leadership of organization, CVC and TII . Thus identifying areas for improvement.
- an annual report on the progress/effectiveness of IP program by IEMs to the Board of Directors of the concerned company.

Violations & Consequences

If a vendor commits any violation of its commitments and obligations under the IP program, it may result in:

- Loss of bid security and performance bond.
- The Principal may terminate its current contract and business relationship with the vendor.
- Banning and exclusion of vendors from future dealings until the concerned IEMs are satisfied that the vendors will not commit violations in future.
- Criminal proceedings against the violating vendor(s), if necessary.
- Payment of damages as determined by IEM.

Why should a company sign IP?

- The IP is a model for transparency in public procurement and contracts.
- It helps enhance public trust in government contracting and hence contributes to improving credibility of contracting procedures and administration in general.
- It enables companies to be free from hassels of bribing by providing assurances to them that
 - (a) their competitors will also refrain from bribing
 - (b) government bidding system and procurement will be absolutely transparent
 - (c) government will not only prevent corruption but also extortion by their officials, and follow transparent procedures.
- It helps Government and companies to reduce high cost of procurement and contracts and maintain quality control.
- It creates confidence and trust in decision making process, a more hospitable investment climate, and public support in the country.

EXPERIENCES

Integrity Pact ensures

- Greater transparency and integrity between buyer and seller.
- Elimination of external interventions in matters of contracts and tenders.
- Improved sense of ethics among companies and the bidders.
- Reduction in representations/complaints from any bidder or contractor for review.
- Improvement in the bottom line.

Why relevant in India?

- Corruption hurts poorest the most.
- India is perceived to be one of the corrupt nations and ranks 95th among 193 countries in Transparency International's Corruption Perception Index (CPI) 2011.
- Existing anti-corruption organizations have had limited success in fighting corruption.
- Most people believe that corruption is rising at an alarming rate.
- Frequent scandals and delays plague Government contracts and other procurement.
- Such delays increase costs of public procurement, works and projects and drains public exchequer.
- IP program is supplementing existing methods and is found to be an effective tool for ensuring transparency in public contracting.

Support of Central Vigilance Commission

- Extending full support to the concept, the CVC issued circulars on Dec. 4, 2007 , May 19th & Aug 5th 2008, May 18th, 2009 and thereafter recommending the adoption of Integrity Pact in all major procurements.
- Appointment of Independent External Monitors of impeccable integrity (IEMs) is approved by CVC.
- Periodical monitoring of IP.

- In accordance with CVC's circulars, the Department of Personal & Training has also issued a circular on 16th June 2009 recommending IP for State PSUs.
- Department of Expenditure under Ministry of Finance has issued Office Memorandum dated 20th July 2011 recommending use of integrity Pact by PSUs.
- Department of Public Enterprises under Ministry of Heavy Industries and Public Enterprises has issued Office Memorandum dated 9th September 2011 recommending use of integrity Pact by PSUs.

List of PSUs that have Committed to Implement Integrity Pact

PSU	Date of MoU
1. Oil & Natural Gas Corporation	17.04.2006
2. Rashtriya Ispat Nigam Limited	29.03.2007
3. Hindustan Petroleum Corporation Limited	13.07.2007
4. Gas Authority of India Limited	23.07.2007
5. Coal India Limited	25.08.2007
6. Hindustan Steelworks Construction Limited	24.09.2007
7. MECON Limited	24.09.2007
8. Metal Scrap Trading Corporation Limited	24.09.2007
9. National Mineral Development Corporation	24.09.2007
10. Ferro Scrap Nigam Limited	24.09.2007
11. Steel Authority of India Limited	24.09.2007
12. Kudremukh Iron Ore Company Limited	24.09.2007
13. Bharat Refractories Limited	24.09.2007
14. Manganese Ore (India) Limited	24.09.2007
15. Oil India Limited	29.11.2007
16. Container Corporation of India	20.12.2007
17. Neyveli Lignite Corporation Limited	29.12.2007
18. Bharat Petroleum Corporation Limited	10.01.2008
19. Indian Oil Corporation Limited	18.01.2008
20. Airport Authority of India	15.02.2008
21. Mahanagar Telephone Nigam Limited	05.03.2008
22. Northern Coalfields Limited	14.03.2008
23. South Eastern Coalfields Limited	26.03.2008
24. Mahanadi Coalfields Limited	07.04.2008
25. Western Coalfields Limited	21.05.2008
26. Central Coalfields Limited	11.08.2008
27. Central Mine Planning Design & Institute	11.08.2008
28. Telecommunication Consultants India Ltd.	27.08.2008
29. Hindustan Copper Limited	29.09.2008
30. Bharat Heavy Electrical Limited	16.12.2008
31. National Thermal Power Corporation	16.12.2008
32. Eastern Coalfields Limited	24.12.2008
33. Bharat Sanchar Nigam Limited	02.03.2009
34. Bharat Coking Coal Limited	04.03.2009
35. RITES Limited	13.03.2009
36. Chennai Petroleum Corporation Limited	24.03.2009
37. Shipping Corporation of India Limited	26.03.2009
38. National Hydro-Electric Power Corpn. Ltd.	15.05.2009
39. Power Grid Corporation of India Limited	24.12.2009
40. Satluj Jal Vidyut Nigam Limited	05.01.2011
41. Numaligarh Oil Refinery	26.09.2011
42. Engineers India Limited	07.11.2011
43. Pawan Hans Helicopters Ltd.	09.11.2011
44. Orissa Power Generation Corporation	20.12.2011
45. Tehri Hydro Development Corporation	03.11.2012