

OECD Public Governance Reviews

OECD Integrity Review of Mexico City

UPGRADING THE LOCAL ANTI-CORRUPTION SYSTEM



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SYSTEM

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Foreword

The 2017 *OECD Recommendation of the Council on Public Integrity* recognises integrity as a cornerstone of good governance. Integrity is essential for economic and social well-being and for the prosperity of individuals and society. By enacting the Law on the Local Anti-corruption System of Mexico City, the Government of Mexico City has demonstrated its commitment to strengthening its integrity system.

The active engagement of sub-national governments is crucial if the National Anti-corruption System is to realise its full potential. Federal states and municipalities in Mexico are responsible for a variety of public services that influence the quality of life and the business environment. Vital public utilities, such as potable water, drainage, sewerage, street paving, public lighting, marketplaces and public cemeteries, are the responsibility of local governments. In addition, local governments have the authority to regulate economic activities such as construction, town planning and business licenses.

According to a 2017 survey carried out by the National Institute for Statistics and Geography (INEGI), a vast majority of citizens in Mexico City consider corruption to be an endemic problem. The perception of abuse of office and corruption can have devastating effects on citizens' trust in government. If adequately implemented, the Local Anti-Corruption System will not only fight corruption and increase sustainable economic and social development, but strengthen the rule of law and restore trust in government and public institutions.

The *OECD Integrity Review of Mexico City* is the second sub-national OECD Integrity Review conducted in Mexico and provides a comprehensive assessment of the local integrity system. It offers policy recommendations to maximise the efficacy of the Local Anti-corruption System. It also calls for sustained efforts to create a culture of integrity, including setting up an effective control and risk management framework, encouraging stakeholder engagement, monitoring and evaluating integrity policies, safeguarding public procurement and optimising value for money in this activity.

This review examines good international practices that can help guide Mexico City authorities as they roll out the Local Anti-corruption System. It encourages the adoption of an integrity approach based on data and evidence, including identifying priority areas for action and evaluating the system to better inform policy and future reforms.

The main challenge for Mexico City's government is to translate the anti-corruption laws and regulations into real change. The new system may take time to achieve its full potential, but its real impact will depend on its inclusiveness and on the government's capacity to create a culture of integrity, not only in the public sector, but in the private sector and in society as a whole.

Mexico City, the biggest metropolitan area in the country, should take a leading role in local governments' fight against corruption. The OECD is ready to support the implementation of the policy recommendations included in this report and to help to monitor its progress to ensure that they are successfully accomplished.

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This review is part of a series of governance reviews in OECD and G20 countries. It is also part of a series of sub-national reviews in Mexico to advance good governance and public integrity. The review benefited from inputs provided by senior officials from Mexico City's Office of the Comptroller-General, state legislators, business chambers, civil society organisations, and ministries of the government of Mexico City.

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Abbreviations and acronyms

ACA	Association of Chartered Accountants
ACRC	Anti-corruption and Civil Rights Commission of Korea
ANAC	National Anti-corruption Authority, Italy
APS	Australian Public Service
ASF	Supreme Audit Institution (<i>Auditoría Superior de la Federación</i>)
ASCDMX	Supreme Audit Institution of Mexico City (<i>Auditoría Superior de la Ciudad de México</i>)
BIT	Behavioral Insights Team, United Kingdom
BRIAS	Bid-Rigging Indicator Analysis System, Korea
CA	Contracting authority
CAD	Canadian dollar
CAN	High-level anti-corruption Commission (<i>Comisión Alto-nivel de Anti-corrupción</i>)
CCR	Central Contractor Registration, United States
CEDE	Center for Studies of Economic Development, Colombia
CEPCI	Ethics Committees (<i>Comités de Ética y de Prevención de Conflictos de Interés</i>)
CESPDF	Ethics Code for Public Servants (<i>Código de Ética de los Servidores Públicos para el Distrito Federal</i>)
CGCDMX	Office of the Comptroller-General of Mexico City (<i>Contraloría General de la Ciudad de México</i>)
CGR	Comptroller-General (<i>Contraloría General de la República</i>), Peru
CGMA	General Co-ordination for Administrative Modernisation (<i>Coordinación General de Modernización Administrativa</i>)
CNCLCC	National Citizens Committee for the Fight against Corruption
COIPISA	Inter-institutional Preparatory Council for the Implementation of the Anti-corruption System of Mexico City (<i>Consejo Interinstitucional Preparatorio para la Implementación del Sistema Anticorrupción</i>)
COL	Culture of Lawfulness project
COSP	Charter of Duties of Public Servants (<i>Carta de Obligaciones de los Servidores Públicos</i>)

CRA	Regional anti-corruption commission
CRD	Community Relations Department, Hong Kong
CUCEA	Centre for Economic and Administrative Sciences of the University of Guadalajara (<i>Centro Universitario de Ciencias Económico Administrativas</i>)
EAP	School of Public Administration of Mexico City (<i>Escuela de Administración Pública de la Ciudad de México</i>)
ENCIG	Survey of Quality and Impact of Government (<i>Encuesta Nacional de Calidad e Impacto Gubernamental</i>)
EPI	Integral and Preventing Evaluation (<i>Evaluación Preventiva Integral</i>)
EPLS	Excluded Parties Lists System, United States
EUR	Euro
Evalúa CDMX	Council for Evaluation of Social Development of Mexico City (<i>Consejo de Evaluación del Desarrollo Social de la Ciudad de México</i>)
GAO	Government Accountability Office, United States
GDP	Gross domestic product
GSA	Government Services Administration, United States
HRM	Human resources management
ICAC	Independent Commission against Corruption, Hong Kong
ICT	Information and communications technology
IIA	Institute of Internal Auditors
IMCO	Mexican Institute for Competitiveness (<i>Instituto Mexicano para la Competitividad</i>)
INE	National Electoral Institute (<i>Instituto Nacional Electoral</i>)
INEGI	National Institute for Statistics and Geography (<i>Instituto Nacional de Estadística y Geografía</i>)
InfoDF	Institute for Transparency, Access to Public Information, Data Protection and Accountability (<i>Instituto de Transparencia, Acceso a la Información Pública, Protección de Datos Personales y Rendición de Cuentas de la Ciudad de México</i>)
INTOSAI	International Organization of Supreme Audit Institutions
IRPA	Interior Regulation of the Public Administration of Mexico City (<i>Reglamento Interior de la Administración Pública del Distrito Federal</i>)
KNAB	Corruption Prevention and Combating Bureau of Latvia
LAASSP	Law on Acquisitions, Leasing and Services of the Public Sector (<i>Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público</i>)

LFACP	Federal Anti-corruption Law on Public Procurement (<i>Ley Federal Anticorrupción en Contrataciones Públicas</i>)
LFRA SP	Federal Law on the Administrative Responsibilities of Public Servants (<i>Ley Federal de Responsabilidades Administrativas de los Servidores Públicos</i>)
LF RSP	Federal Law on the Responsibilities of Public Servants (<i>Ley Federal de Responsabilidades de los Servidores Públicos</i>) (abrogated)
LGRA	General Law of Administrative Responsibilities (<i>Ley General de Responsabilidades Administrativas</i>)
LOAP	Organic Law of the Public Administration of Mexico City (<i>Ley Orgánica de la Administración Pública del Distrito Federal</i>)
LOPSRM	Law on Public Works and Related Services (<i>Ley de Obras Públicas y Servicios Relacionados con las Mismas</i>)
LPDP	Protection of Personal Data Law (<i>Ley de Protección de Datos Personales</i>)
LRA	Law on Administrative Responsibilities of Mexico City (<i>Ley de Responsabilidades Administrativas de la Ciudad de México</i>)
LRASP	Law of Administrative Responsibilities of Public Servants of Mexico City
LSLAC	Law of the Local Anti-corruption System (<i>Ley del Sistema Anticorrupción de la Ciudad de México</i>)
LSPCAP	Public Service Law for the Public Administration of Mexico City (<i>Ley del Servicio Público de Carrera de la Administración Pública del Distrito Federal</i>)
LTAIPRC	Law on Transparency, Access to Public Information and Accountability (<i>Ley de Transparencia, Acceso a la Información Pública y Rendición de Cuentas de la Ciudad de México</i>)
KONEPS	E-Procurement system, Korea
MDC	Modern Didactics Center, Lithuania
OECD	Organisation for Economic Co-operation and Development
OLPA	Organic Law of the Public Administration of Mexico City (<i>Ley Orgánica de la Administración Pública del Distrito Federal</i>)
OMCDMX	Administrative Office of the Government of Mexico City (<i>Oficialía Mayor de la Ciudad de México</i>)
OSCE	Supervisory Body of Public Contracting (<i>Organismo Supervisor de las Contrataciones del Estado</i>), Peru
PAAF	Annual Programme of Audits for the Public Account (<i>Programa Anual de Auditorías para la Fiscalización Superior de la Cuenta Pública</i>)
PACE	Project for School Co-existence (<i>Proyecto a Favor de la Convivencia Escolar</i>)

PCM	President of the Cabinet Office (<i>Presidencia del Consejo de Ministros</i>), Peru
PECDMX	Expenditure Budget of Mexico City (<i>Presupuesto de Egresos de la Ciudad de México</i>)
PGDDF	General Development Programme of Mexico City (<i>Programa General de Desarrollo del Distrito Federal</i>)
PNCE	National School Coexistence Programme (<i>Programa Nacional de Convivencia Escolar</i>)
PPIRS	Past Performance Information Retrieval System, United States
PPL	Public Procurement Law (<i>Ley de Adquisiciones para el Distrito Federal</i>)
PWL	Public Works Law (<i>Ley de Obras Públicas del Distrito Federal</i>)
MXN	Mexican peso
REGPPL	Public Procurement Law of Mexico City (<i>Reglamento de la Ley de Adquisiciones para el Distrito Federal</i>)
REGPWL	Public Works Law of Mexico City (<i>Reglamento de la Ley de Obras Públicas del Distrito Federal</i>)
RFQ	Request for quotation
PPS	Public Procurement Service, Korea
SAI	Supreme audit institution
SAM	System for Award Management, United States
SAT	Tax Revenue Agency (<i>Sistema de Administración Tributaria</i>)
SATE	Training for assistant support staff
SEP	Ministry of Public Education (<i>Secretaría de Educación Pública</i>)
SFP	Ministry of Public Administration (<i>Secretaría de la Función Pública</i>)
SICOP	Accounting and Budgeting System (<i>Sistema de Contabilidad y Presupuesto</i>)
SLAC-CDMX	Anti-corruption System of Mexico City (<i>Sistema Anticorrupción de la Ciudad de México</i>)
SNAC	National Anti-corruption System (<i>Sistema Nacional Anticorrupción</i>)
STT	Special Investigation Service, Lithuania
TS	Technical Secretariat
TSJCDMX	Superior Court of Justice of Mexico City (<i>Tribunal Superior de Justicia de la Ciudad de México</i>)
UEIPPCI	Unit specialised in Ethics and Conflict of Interest Prevention (<i>Unidad de Ética, Integridad Pública y Prevención de Conflictos de Intereses</i>)

UNAM	National Autonomous University of Mexico (<i>Universidad Nacional Autónoma de México</i>)
UNCAC	United Nations Convention Against Corruption
USD	United States dollar

Executive summary

Taking its cue from Mexico's National Anti-corruption System, the government of Mexico City created the Local Anti-corruption System (LACS) on 1 September 2017, enacting a package of laws to strengthen the institutional architecture against corruption.

A comprehensive and resilient public sector integrity system based on evidence

The LACS represents a positive step towards developing a harmonised approach to integrity in Mexico City, including the allocation of responsibilities to the key institutions in charge of preventing, detecting and punishing corruption. While the new system should improve co-ordination among these institutions, it could be further reinforced. Establishing a dedicated contact point for anti-corruption in every entity of the city government would send a strong signal of high-level commitment. Under the LACS, civil society was granted an important oversight role through the Citizen Participation Committee (CPC), one of whose members serves as the chair of the system's Co-ordination Committee. However, to improve accountability, members of the CPC should be appointed according to clear and transparent criteria. Similarly, the risk of undue influence in the appointment of the Technical Secretariat could be mitigated by giving the LACS governing body the power to appoint and remove the Secretariat.

Gathering credible, relevant information about the overall effectiveness of the public integrity system is crucial for developing a strategic approach. By using existing data and evidence on corruption, for example from the National Institute for Statistics and Geography (INEGI), the Co-ordination Committee could conduct a systematic corruption risk assessment. Based on this assessment, the Co-ordination Committee could identify the overall goal of integrity policies and priority areas for action. This would form the basis for its annual work plan, with clear institutional responsibilities for each identified policy goal. In addition, Mexico City could develop a monitoring system aligned with the general monitoring framework overseen by the General Co-ordination for Administrative Modernisation, to create a feedback loop based on evidence between policy design and effective implementation.

Building and sustaining a culture of integrity

The review found that Mexico City's government structure is composed of units and bodies whose mandates, objectives and functions overlap. As a result, public servants do not have a uniform understanding of values, principles and practices. The existing normative framework is fragmented and lacks clear definitions of core integrity values as well as mechanisms for promoting and enforcing them.

To clarify these issues, Mexico City could consider streamlining its rules for integrity in a single ethics code that clearly presents core integrity values to public servants. A common definition of conflict of interest could be drafted, and its scope and enforcement mechanisms laid out. In addition, a point of contact could be designated for any questions

about the content of the ethical guidelines or their application. Additional core integrity principles could also be developed, such as those related to gifts and post- and pre-employment rules.

According to a survey by INEGI, 95% of citizens perceive that corruption is frequent in Mexico City. As a result, neither public officials nor citizens feel confident about reporting misconduct. The recently approved Law on Administrative Responsibilities of Mexico City (*Ley de Responsabilidades Administrativas de la Ciudad de México*) establishes a whistle-blower protection framework, requiring reporting channels and ensuring the anonymity of those who report integrity failures. Nevertheless, the Law includes only limited protection for whistle-blowers, since it does not detail any measures that might protect them from retaliation in the workplace.

To set up a legal framework that will encourage reporting, Mexico City could enact a dedicated whistle-blower protection law that clarifies the protection measures available and prohibits the dismissal of whistle-blowers or any other kind of formal or informal work-related sanction in response to disclosure. At the same time, greater efforts are needed to create an open organisational culture, in which civil servants feel confident to express concerns. For example, senior public officials could be trained to provide advice to line officials to encourage them to discuss integrity issues.

Mexico City would benefit from promoting shared responsibility for integrity among citizens and the private sector, seeking their active engagement through awareness-raising activities and citizen participation. Building on recent developments in behavioural science, moral reminders to inform ethical decision-making could be included at the beginning of standard transactions with government. Furthermore, the Mexico City's Ministry of Education could develop content and pedagogical tools for ethics education in schools.

Strengthening and mainstreaming internal control

A strong internal control and risk management framework is critical for protecting integrity, ensuring accountability and preventing corruption in public sector organisations. This framework should align with international models, such as the “three lines of defence”, which allocates responsibilities for internal control and risk management among operational personnel, staff with oversight responsibility and the internal audit function. Mexico City has applied elements of this model, but it could reinforce its framework by clearly separating the lines of defence. Senior management could be charged with implementing risk management, and designing and implementing internal measures. It could also provide guidance and training to staff, and ensure that the framework is supported by an effective and independent internal audit function.

Addressing integrity in public procurement

Public procurement is one of the government activities most vulnerable to integrity risks, given the financial stakes, the number of stakeholders involved and the complexity of procurement processes. In 2016, in monetary terms, about 66% of Mexico City's public procurement was conducted through direct awards and approximately 19% through restricted tenders. In OECD countries, open tenders are common, and Mexico City should adopt legal reforms to reduce the number of legal exceptions to open tender. Similarly, Mexico City should consider developing a tailored anti-corruption strategy for public procurement, strengthening controls on public procurement, encouraging the transparency

of the procurement system by developing a comprehensive e-procurement system (including for public works), and strengthening the review system by introducing alternative mechanisms. Given that the smooth operation of the procurement system requires a skilled workforce, Mexico City could benefit from encouraging a culture of integrity among procurement officials through dedicated training programmes.

Chapter 1. Laying the groundwork for a coherent integrity system in Mexico City

This chapter examines the coherence and resilience of Mexico City's public integrity system. At present, it is undergoing substantive reforms that will establish the Local Anti-corruption System of Mexico City. In line with the principles of the OECD 2017 Recommendation of the Council on Public Integrity, it examines the institutional arrangements of the Local Anti-corruption System, with a view to strengthening vertical and horizontal co-ordination. It also suggests adopting a whole-of-society approach towards integrity by actively involving civil society. This chapter reviews how a strategic approach to public integrity can be mainstreamed throughout public institutions.

1.1. Introduction

A key issue in any public integrity system concerns the institutional set-up for ensuring public sector integrity and fighting corruption. Designing a comprehensive and coherent public integrity system with clear institutional arrangements is a crucial element in delivering successful integrity policies throughout society. Integrity policies and functions are increasingly shared between actors and institutions in different sectors and levels of government. In the context of ensuring the effectiveness of integrity policies, and maximising institutions' scope and capacity to fulfil their mandates, it is increasingly important to address structural or operational deficiencies that hold back measures to prevent and stamp out corruption.

Mexico City is undergoing a wide anti-corruption reform that will establish the Local Anti-corruption System of Mexico City (*Sistema Local Anticorrupción de la Ciudad de México*, or SLAC-CDMX). Its goal is to prevent and detect corruption, sanction breaches of administrative responsibilities and corrupt misconduct. It is also intended to harmonise the legal framework with the constitutional reform at the national level that created the National Anti-corruption System (*Sistema Nacional Anticorrupción*, SNAC). The SNAC is an attempt to improve on the previous integrity system by:

- addressing fragmentation in policies and developing a more comprehensive and coherent approach to integrity;
- overcoming notorious “implementation gaps” by improving co-ordination both vertically (across federal government) and horizontally (between levels of government), and particularly by bringing states into the remit of the system;
- strengthening enforcement mechanisms for integrity breaches under both administrative and criminal jurisdictions, including for private sector actors;
- reinforcing oversight by requiring greater transparency, expanded auditing powers and greater involvement of civil society (OECD, 2017^[1]).

The implementation of Mexico's National Anti-corruption Reform in Mexico City is an obligation enshrined in the Mexican Constitution (Article 113) and makes it necessary to adopt and reform legal instruments in Mexico City according to the national model (Box 1.1). It represents an opportunity to strengthen institutional arrangements for a coherent and comprehensive integrity system.

Box 1.1. Mexico's national anti-corruption reform

On 27 May 2015, Mexico's *Federal Official Gazette* published a decree that amended, added or repealed several provisions of the Constitution (specifically, Articles 22, 28, 41, 73, 74, 76, 79, 104, 108, 109, 113, 114, 116 and 122). This reform introduced the National Anti-corruption System (*Sistema Nacional Anticorrupción*, or SNAC) into law and set in motion the debates around and passage of the secondary legislation necessary to put the SNAC into effect. A year later, on 18 July 2016, these secondary laws were promulgated by Decree (*Decreto por el que se expide la Ley General del Sistema Nacional Anticorrupción; la Ley General de Responsabilidades Administrativas, y la Ley Orgánica del Tribunal Federal de Justicia Administrativa*) and included the following:

- **General Law of the National Anti-corruption System** (*Ley General del Sistema Nacional Anticorrupción*): the cornerstone legislation establishing institutional and governance arrangements for the System and outlining its objectives and the required activities. It has the status of a General Law and requires federal states to set up their own systems along similar lines. The law also requires specific information to be published and made publicly available on the newly created Digital Platform (*Plataforma Digital Nacional del Sistema Nacional*).
- **Organic Law of the Federal Tribunal of Administrative Justice** (*Ley Orgánica del Tribunal Federal de Justicia Administrativa*): the tribunal was made autonomous under the Constitutional reform of 2015, and this new law established the organisation of the Tribunal and its courts, including regional courts. The Law also sets out rules for the selection and removal of magistrates.
- **The Organic Law of the Attorney General's Office** (*Ley Orgánica de la Procuraduría General de la República*): this creates the position of Specialised Anti-corruption Prosecutor (*Fiscal Especializado en material de delitos relacionados con la corrupción*), outlining the responsibilities of this office and consolidating its role in the national anti-corruption system. The **Criminal Code** was amended accordingly, to further clarify procedures for prosecuting corruption-related crimes under Chapter 10.
- **General Law of Administrative Responsibilities** (*Ley General de Responsabilidades Administrativas*): this new law replaced the federal Law of Administrative Responsibilities when it expired in July 2017. It lays out the responsibilities of public officials (including the disclosure of their private assets and interests) and sets out administrative disciplinary procedures for misconduct, differentiating between less serious and serious offences. Serious offences may now fall under the jurisdiction of the federal Tribunal of Administrative Justice. Notably, it also expands liability for alleged breaches of integrity to natural and legal persons.
- **The Law of Auditing and Accountability** (*Ley de Fiscalización y Rendición de Cuentas de la Federación*): this new law extends the remit of the Supreme Audit Institution (*Auditoría Superior de la Federación*), permitting real-time audits and oversight over tax-sharing arrangements (*participaciones*) funds, an important category of transfers to subnational governments. The law also

mandates that audit reports are presented to Congress on a more timely basis to increase accountability for efficiency and results, and to better inform budgetary decisions for upcoming fiscal years.

- **The Law of Fiscal Co-ordination** (*Ley de Coordinación Fiscal*): this law, which has regulated the distribution of federal subsidies and *participaciones* since 1978, was amended to align with the new provisions of SNAC, particularly concerning the role of the Tribunal in disputes and the expanded remit of the Supreme Audit Institution of Mexico (*Auditoría Superior de la Federación*, ASF).
- **The General Law on Government Accounting** (*Ley General de Contabilidad Gubernamental*): this amended financial reporting requirements for states and municipalities, as per the extended auditing of the ASF over *participaciones* funds (transfers to states).

Source: (OECD, 2017^[1]).

At the institutional level, under Article 34 of the Organic Law of the Public Administration of the Federal District (*Ley Orgánica de la Administración Pública del Distrito Federal*), the Office of the Comptroller-General of Mexico City (*Contraloría General de la Ciudad de México*) is the leading body for integrity and anti-corruption in the government of Mexico City. Specifically, its responsibilities cover both the prevention and the detection and discipline of corruption in such areas as public procurement, internal control, the efficiency of public administration, human resources management and receipt of reports, and investigation of violations of public servants' administrative responsibilities.

In addition, the Administrative Office of the Government of Mexico City (*Oficialía Mayor de la Ciudad de México*), the Supreme Audit Institution of Mexico City (*Auditoría Superior de la Ciudad de México*), the Superior Court of Justice of Mexico City (*Tribunal Superior de Justicia de la Ciudad de México*), and Mexico City's Institute for Transparency, Access to Public Information, Data Protection and Accountability (*Instituto de Transparencia, Acceso a la Información Pública, Protección de Datos Personales y Rendición de Cuentas de la Ciudad de México*, or InfoDF) play a key role. Their core mandates are public management, human resource management, public procurement, external control, justice and transparency.

Box 1.2 gives an overview of the main players in the system. This chapter offers recommendations on how to improve Mexico City's public integrity system, how to improve horizontal and vertical co-ordination, and how to ensure that the integrity policies make the greatest impact, taking into account the proposed reform to adopt the Local Anti-corruption System.

Box 1.2. Key actors of the public integrity system of Mexico City

The **Office of the Comptroller-General of Mexico City** (*Contraloría General de la Ciudad de México*, CGCDMX) governs all matters relating to the control and evaluation of public management of the different entities that make up the public administration in the capital. Its responsibilities include supervising and monitoring public expenses; monitoring compliance with internal rules; nominating and co-ordinating with the heads of the internal control offices in the government entities issuing guidelines for audits; conducting public procurement; overseeing the complaints mechanism, administering the asset declaration system; initiating and investigating violations of administrative responsibilities; and formulating guidelines on efficiency, transparency, accounting and access to information.

The **School of Public Administration** (*Escuela de Administración Pública de la Ciudad de México*, EAP) is one of the institutions responsible for the training and professionalisation of public servants. In recent years, it has developed an integrity training programme based on the code of ethics and guidelines. In addition, the EAP is collaborating with national and international partners to develop good practices in public management.

The **Administrative Office of the Government of Mexico City** (*Oficialía Mayor de la Ciudad de México*, or OMCDMX) is responsible for human resources management, modernisation, innovation, administrative simplification, regulatory improvement and service to citizens, public procurement, general services, information technology and communications, real estate assets and, in general, the internal administration of the public administration of Mexico City.

External audit is carried out by **Supreme Audit Institution of Mexico City** (*Auditoría Superior de la Ciudad de México*, ASCDMX), which is accountable to the legislative assembly and is responsible for auditing public accounts. The Supreme Audit Institution has the authority to determine damages to the public accounts and assets of the state government and directly establish indemnities and economic penalties.

The judiciary is headed by the **Superior Court of Justice of Mexico City** (*Tribunal Superior de Justicia de la Ciudad de México*, TSJCDMX). Judges of the Superior Courts of Justice are appointed by the head of the Executive Power (*Mayor*) with approval of the legislative assembly. Criminal investigations are carried out by the Attorney General of Mexico City (*Procurador General de Justicia*), who is nominated by the mayor upon approval of the President of Mexico.

Mexico City's **Institute for Transparency, Access to Public Information, Data Protection and Accountability** (*Instituto de Transparencia, Acceso a la Información Pública, Protección de Datos Personales y Rendición de Cuentas de la Ciudad de México*, or InfoDF) is an autonomous body as guaranteed in the Law on Transparency, Access to Public Information and Accountability (*Ley de Transparencia y Acceso a la Información Pública del Distrito Federal*). It is in charge of guaranteeing the right of access to public information and the protection of personal data, and promotes transparency and accountability.

Source: Constitución Política de los Estados Unidos Mexicanos, last amendment, February 2017, http://www.diputados.gob.mx/LeyesBiblio/pdf/1_150917.pdf; Asamblea Legislativa del Distrito Federal (2015), Ley Orgánica de la Administración Pública del Distrito Federal vigente; Asamblea Legislativa del Distrito Federal (2017), Ley de Fiscalización Superior de la Ciudad de México; Asamblea Legislativa del Distrito Federal (2016), Ley de Transparencia y Acceso a la Información Pública del Distrito Federal.

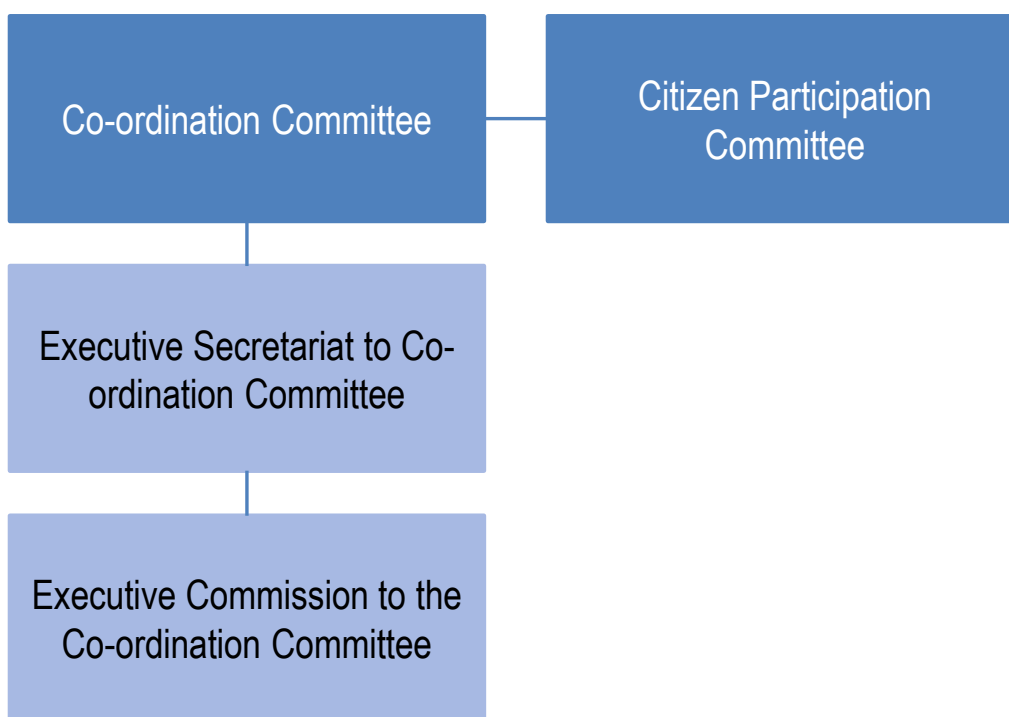
1.2. Creating clear responsibilities and co-ordinating public sector entities under the Anti-corruption System of Mexico City

1.2.1. The inclusion of the Council for Evaluation and the Control Body of the Congress in the current design of the Co-ordination Committee needs to be carefully assessed by Mexico City ensuring independence and taking into account the expertise of these bodies.

Mexico City's goal in instituting the Law of the Local Anti-corruption System (LSLAC) and its secondary legislation is to create a mechanism to establish a coherent integrity system in which key actors can co-ordinate on integrity. It has the potential to align policies and strategies across the government to help implement the legislation.

On 31 January 2017, the Constitution of Mexico City was enacted, enshrining the LSLAC (specifically, Article 63) in law. The internal governance structure of the SLAC-CDMX replicates that of the National Anti-corruption System, and will be made up of a Co-ordination Committee and a Citizen Participation Committee (Figure 1.1).

Figure 1.1. Governance of the Local Anti-corruption System



Source: (OECD, 2017^[11]), *OECD Integrity Review of Mexico: Taking a Stronger Stance Against Corruption*, OECD Public Governance Reviews, OECD Publishing, Paris.

As in most public integrity systems, various public institutions in Mexico City are directly or indirectly involved in either corruption prevention or detection, or both (Box 1.2). The Local Anti-corruption System assembles the key institutions responsible for public integrity both from the public sector and from civil society. Each actor in the system is a key piece of the puzzle for strengthening public integrity (Table 1.1).

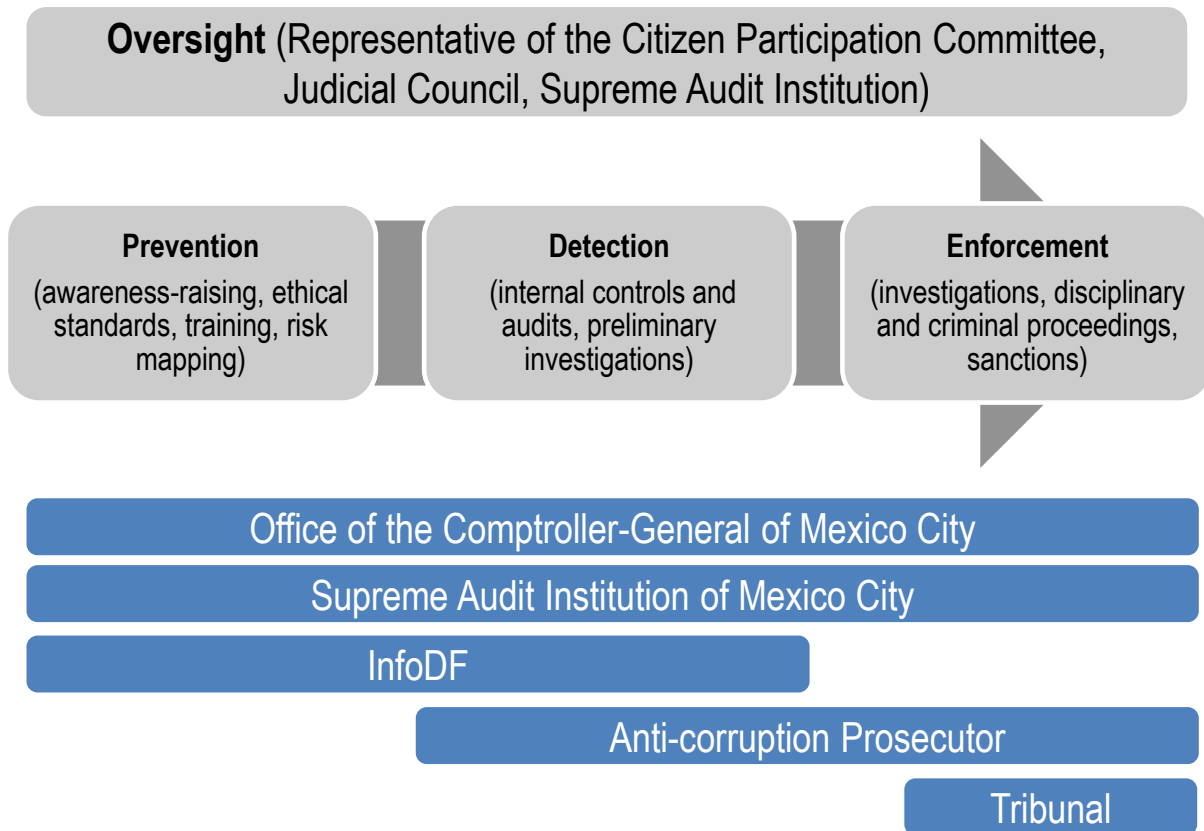
The Co-ordination Committee, led by the President of the Citizen Participation Committee, extends at the national level over the three key functions of prevention, investigation and punishment of corruption. Figure 1.2 shows how its design would translate to the context of Mexico City. The mandate of the Office of the Comptroller-General of Mexico City covers prevention, detection and enforcement. It is responsible for ethics, internal control and audit (see Chapter 6. on Internal Control), digital government, human resources management and disciplinary proceedings for less serious offences. So far, these functions have been spread over several directorates within the Office of the Controller General, which has made it difficult to establish a coherent and consistent approach to strengthening integrity (see Chapter 3.). Similarly, the new functions granted to the Supreme Audit Institution of Mexico City make it a significant actor in all three areas. It carries out performance audits of integrity systems, gives guidance in developing risk assessment and mapping guidelines, conducts financial and compliance audits, and has a new function to conduct forensic audits and submit evidence to the Tribunal and Special Prosecutor. The Anti-corruption Prosecutor plays a role in investigating and pursuing administrative and criminal offences, while the Administrative Tribunal is responsible for enforcement.

Table 1.1. Government entities involved in the Local Anti-corruption System

Entities	Members	Main tasks
Co-ordination Committee	President: member of Citizen Participation Committee Members: Auditor-General of Mexico City, Specialised Anti-corruption Prosecutor (to be created in Mexico City), Comptroller- General, a representative of the Mexico City Superior Court of Justice, President of InfoDF, President of Mexico City's Administrative Justice Tribunal (which has yet to be created in Mexico City), the Control Body of the Congress and the President of the Evaluation Council of Mexico City.	• Establishes the basis and principles for effective co-ordination among its members, including the territorial demarcations
Executive Secretariat of the Co-ordination Committee, which includes:	Technical Secretariat and Governing Board (members of the Co-ordination Committee) of the system led by the President of the Citizens' Committee and made up of the members of the Co-ordination Committee	Provides technical support to the Co-ordination Committee, as well as input for the performance of its tasks.
• Technical Secretary	Proposed by the Committee on Transparency and Corruption and the Committee on Accountability and Control of the Supreme Audit Institution and elected by the Congress	Manages the Executive Secretariat and serves as intermediary for the Co-ordination Committee, the members of the Local Anti-corruption System and the Citizen Participation Committee.
• Executive Commission to the Co-ordination Committee	Technical Secretary and Citizen Participation Committee (with the exception of this Committee's President)	Provides technical support in designing and implementing the activities and responsibilities of the Co-ordination Committee, including its annual report and co-ordination with the National Anti-corruption System.
Citizen Participation Committee	Five representatives from civil society who have made outstanding contributions to transparency, accountability or the fight against corruption. They serve for five years and are appointed by a Selection Committee of nine experts chosen by the Congress of Mexico.	• Relays input from civil society into the work of the Local Anti-corruption System and oversees its progress and results.
Mexico City's Auditing System (yet to be created)	Supreme Audit Institution of Mexico City, Office of the Comptroller-General of Mexico City, internal and external control offices and units of territorial demarcations	• Establishes actions and co-ordination mechanisms among members to support an exchange of information, ideas and experiences to enhance the development of the audit of public resources
Territorial demarcations	Representatives of territorial demarcations	• The territorial demarcations are not assigned a formal role or task.

Source: Public Administration of Mexico City (2017), Political Constitution of Mexico City; Public Administration of Mexico City (2017), Law of the Anti-corruption System of Mexico City.

Figure 1.2. Responsibilities of the Local Anti-corruption System in the national framework



The institutional arrangement of the anti-corruption system is designed to allow the key actors to better align and co-ordinate policies and strategies in each of the three areas that make up a coherent public integrity system. It is intended to encourage synergies with related agendas, such as transparency and open government, by including Mexico City's Institute for Transparency, Access to Information, Protection of Personal Data and Accountability (*Instituto de Transparencia, Acceso a la Información Pública, Protección de Datos Personales y Rendición de Cuentas de la Ciudad de México*, or InfoDF). The goal is to reduce impunity, one of the main reasons that civil society has demanded an anti-corruption system in recent years. Co-ordination between the CGCDMX, ASCDMX, the Anti-corruption Prosecutor and the Tribunal is intended to ensure that no cases fall through the cracks and that procedures and laws are consistently applied (OECD, 2017^[1]).

Under the Law on the Local Anti-corruption System, the Co-ordination Committee will include two further actors, the Evaluation Council (*Consejo de Evaluación del Desarrollo Social de la Ciudad de México*, or EvalúaCDMX) and the Control Body of the Congress (*Órgano de Control del Congreso*). The inclusion of these two institutions is a departure from the model of the National Anti-corruption System.

From a technical perspective, it may be advisable not to include EvalúaCDMX in the Co-ordination Committee. Given the mandate of EvalúaCDMX is to evaluate social policies in Mexico City, and its authority to provide binding recommendations, it might be better to consider assigning to it oversight of the anti-corruption system and its policies (see Chapter 2.). If Mexico City chooses to take advantage of EvalúaCDMX's expertise

and mandates it to conduct evaluations of the system, EvalúaCDMX should not form part of the Co-ordination Committee, to ensure its independence. If it were to participate in the Committee, it would risk real or perceived undue influence from the Committee to return a favourable evaluation.

However, on the other hand, including EvalúaCDMX in the Co-ordinating Committee of the SLAC-CDMX could be helpful given its extensive experience in the methodology of conducting evaluations and designing relevant indicators. This could benefit the Executive Secretariat of the SLAC-CDMX, which is in charge of monitoring integrity policies. Moreover, EvalúaCDMX could include a systematic analysis of risks of corruption in its evaluation of social programmes. The risks identified could in turn inform the anti-corruption system and integrity policies, by singling out priority areas for action.

Incorporating the Control Body of the Congress¹ (currently known as the General Comptroller of the Legislative Assembly) in the Co-ordination Committee could provide the system with experience in matters of oversight from the perspective of the Legislative Branch. However, the head of the Control Body of the Congress will be appointed by the Legislative Assembly, which creates a risk of undue influence, in making the decisions of the Co-ordination Committee susceptible to political influence.

1.2.2. The Co-ordination Committee could be strengthened by inviting other key integrity actors to participate on a regular basis.

If the system is to be comprehensive, it may be necessary to include some additional actors to introduce the concept of public integrity in the mainstream. Since the Co-ordination Committee does not represent all the relevant integrity actors, the anti-corruption system fails to acknowledge that it does not have the authority to demand action from other public institutions (Hechler and Peñailillo, 2009^[2]). This is in line with the OECD Recommendation (OECD, 2017^[3]) that the federal level include additional actors in the National Anti-corruption System. Its formal inclusion in the Co-ordination Committee risks overburdening the system and making meetings of the Committee too unwieldy to be effective. One option would be to invite the relevant institutions to specific thematic meetings of the Executive Secretariat, giving them the right to speak, but not to vote. Making use of this option as much as possible could be a vital way to help ensure that anti-corruption proprieties and strategies are coherent and co-ordinated.

The following institutions could be invited on a regular basis to thematic discussions of the meetings of the Executive Secretariat:

- **Ministry of Government of Mexico City** (*Secretaría de Gobierno*): Improving vertical and horizontal co-ordination mechanisms between the different government levels (i.e. the federal government, Mexico City and delegations) and between all the relevant integrity actors is the chief aim of the anti-corruption system. The Ministry of Government has key responsibilities for co-ordination and collaboration between the government and territorial demarcations (*delegaciones*). In addition, by regularly participating in meetings, the Ministry of Government can report back to the head of government to ensure the support at the highest level.
- **Administrative Office of the Government of Mexico City** (*Oficialía Mayor de la Ciudad de México*): Mexico City has been subject to corruption because its civil service has not been fully professionalised. The General Programme of

Development recognised this vulnerability, making professionalisation of the civil service a top priority. Both the Administrative Office and the CGCDMX have competences in human resources management, and one key step would be to create a platform for them to co-ordinate on reforming the civil service scheme, focusing on promoting ethical values in public administration.

- **Electoral Institute of Mexico City** (*Instituto Electoral de la Ciudad de México*): The weakness of political accountability subjects the public administration to integrity risks and has led to a lack of trust among voters in election results. Involving the Electoral Institute in the anti-corruption system could help encourage coherence between the agenda of the different actors in the public integrity system.
- **Ministry of Education** (*Secretaría de Educación*): The Ministry could play a role by developing campaigns raising awareness of corruption and by including anti-corruption modules in the curriculum (see Chapter 5. for further details).

Including these actors on an *ad hoc* basis at the meetings of the Executive Secretariat could significantly help mainstream integrity measures throughout the administration. This participative approach could also help encourage ownership of the different institutions at a technical level.

1.2.3. Two technical sub-commissions of the Executive Commission, on prevention and detection/punishment, could be established.

Bringing together the different integrity actors in the Co-ordination Committee can leverage their expertise in formulating policies or strategies. For example, creating an exchange of expertise in the areas of prevention and detection can help adjust preventive measures, based on reports of whistle-blower cases and investigations. This could increase the coherence of the policies and reduce gaps or overlaps.

There is a risk of disconnection between the high-level discussions of the Co-ordination Committee and the technical levels of the member institutions of the anti-corruption system. Anti-corruption strategies often fail to yield the desired results, due to an overly strong focus on legislative and normative reforms and too little emphasis on follow-through. The tendency is to favour politically attractive high-level prosecution cases over structural reforms that target the root causes of corruption. Overly ambitious objectives, in a context of limited institutional capacity, favour technocratic solutions that do not acknowledge the problem of vested political or economic interests (Hussmann, 2007^[4]).

To circumvent these risks, Mexico City could create two consultative technical working groups on prevention and enforcement within the Executive Commission that would meet on a regular basis. This could draw upon the expertise of each member institution, ensuring more in-depth discussion and better-targeted decisions. Prevention and enforcement overlap, but such a division is justified on the technical level, as it involves different government entities or different directorates within the entities. Members of the working groups would include technical staff of the members of the Co-ordination Committee, including members of civil society. Each member of the Co-ordination Committee should nominate technical delegates charged with co-ordinating which representatives should attend the meetings of the two sub-commissions. The technical delegates would also be responsible for briefing their respective head of agency in preparation for the high-level meetings of the Co-ordination Committee. They would also ensure follow-up by their agency on the committee's decisions. The additional

stakeholders proposed as part of the Local Anti-corruption System could also be invited to participate in the working groups (OECD, 2017^[5]).

The technical working groups could meet to develop detailed proposals for the annual work plan, consult on policy proposals, monitor and discuss difficulties encountered in implementation and propose adjustments. They could also provide valuable input for the evaluation phase of the annual work plan, and develop strategies to strengthen integrity. This could help focus anti-corruption plans and encourage better policy implementation. This participatory approach could also help generate ownership of the members at a more technical level (OECD, 2017^[6]). The Technical Secretary could co-ordinate work between the two technical working groups through regular briefings.

1.2.4. A dedicated contact point for the anti-corruption system in each government entity involved could streamline policy implementation.

By creating new bodies and institutionalising formal mechanisms of vertical and horizontal co-ordination, the SLAC-CDMX is setting up a framework for a more coherent and resilient public integrity system. However, to effect change, all members of the anti-corruption system will need to be actively involved to carry out the activities agreed upon. Under the General Law of the National Anti-corruption System (Article 31) and the Law of the Local Anti-corruption System of Mexico City, the Executive Commission is responsible for making non-binding recommendations based on the annual report, and to monitor the adoption of these recommendations.

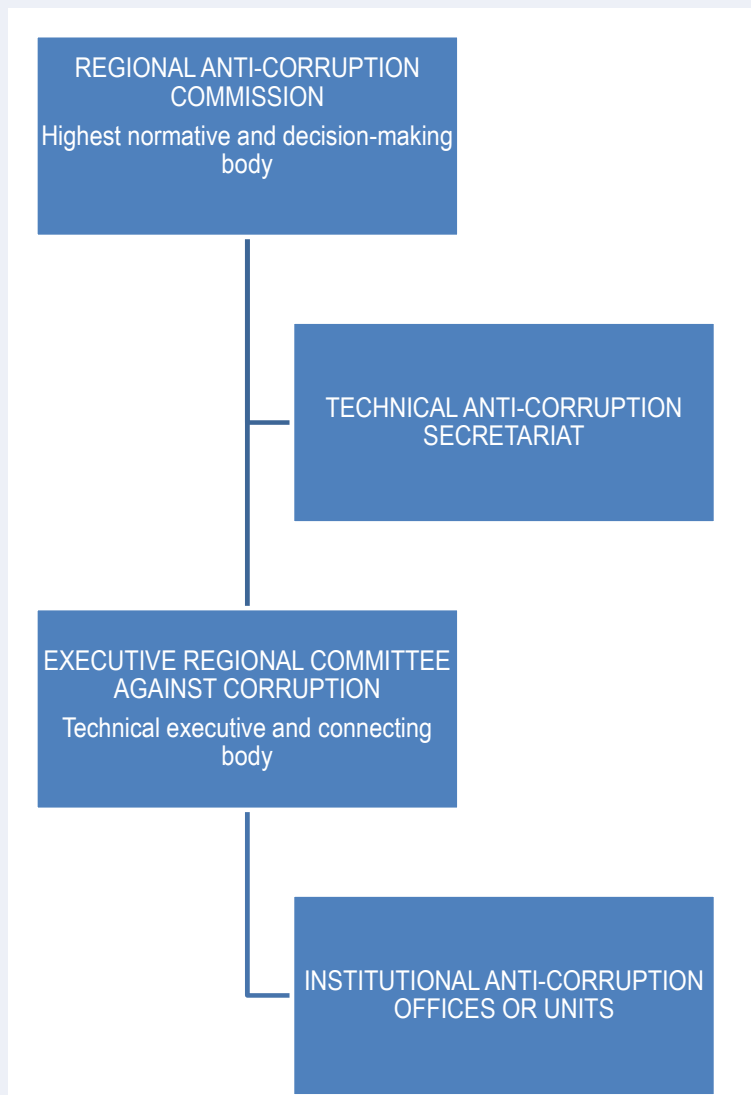
Establishing clear expectations for the highest political and management levels will demonstrate a high-level commitment to enhance public integrity and reduce corruption. Mexico City could more strongly involve the management level in each entity to carrying out the policies and activities decided on by the Co-ordination Committee by creating clear responsibilities for government entities and by clarifying the role of each one in fighting corruption. The OECD recommends that a dedicated unit in each entity, responsible for the implementation of the public integrity system, be established. This unit would be tasked to co-ordinate with the Executive Secretariat of the anti-corruption system, reporting on progress and communicating any difficulties encountered in their implementation. In the region of Piura in Peru, for example, all public entities are required to create an Anti-corruption Unit in charge of complying with the objectives, plans, and activities set by Piura's Regional Anti-corruption Commission (Box 1.3). This unit could also take on the role of the technical delegate participating in the proposed technical working groups (OECD, 2017^[7]).

Box 1.3. Regional Anti-corruption Commission in Piura (Peru)

Regional anti-corruption commissions (CRAs) were established in Peru under Law No. 29 976, which also created the High-level Anti-corruption Commission (*Comisión Alto-nivel de Anti-corrupción*, or CAN), the national body promoting horizontal co-ordination and guaranteeing the coherence of the anti-corruption policy framework in Peru.

One of the tasks of the CRAs is to draft a regional anti-corruption plan. This plan can potentially reflect the specific issues and challenges of the region. However, only six regions have so far developed such a plan (San Martín, Pasco, Amazonas, Cusco, Piura and Huancavelica), and it is not clear how far these plans have been put into operation.

Piura, one of Peru's regions, set up its regional anti-corruption commission (Piura's Commission) under Regional Ordinance No. 263 of 2013, which brings together representatives of the executive and the judicial powers, as well as from municipalities, the private sector and professional associations. Piura's Commission is supported by an Executive Committee responsible for carrying out the policies laid out by the Commission. Co-ordination between the Commission and the Executive Committee is carried out by the Commission's Technical Secretariat. Finally, governance of the system is completed by the anti-corruption units within each public entity. Their tasks include implementing policies approved by the Commission; helping ensure compliance with the Code of Ethics for the public service; co-ordinating the drafting and approval of the anti-corruption plans; preparing a report on anti-corruption activities, and presenting it at public hearings.



Source: (OECD, 2017^[5]), *Integrity Review of Peru* and ppt from Piura's *Regional Anti-corruption Commission*,

http://anticorrupecion.regionpiura.gob.pe/detalle.php?idpag=3&pagina=uni_lucha&verper=0&tit=2.

1.2.5. While implementing the Local Anti-corruption System at the local level, the Executive Secretariat could provide support to the territorial demarcations and offer a forum for feedback.

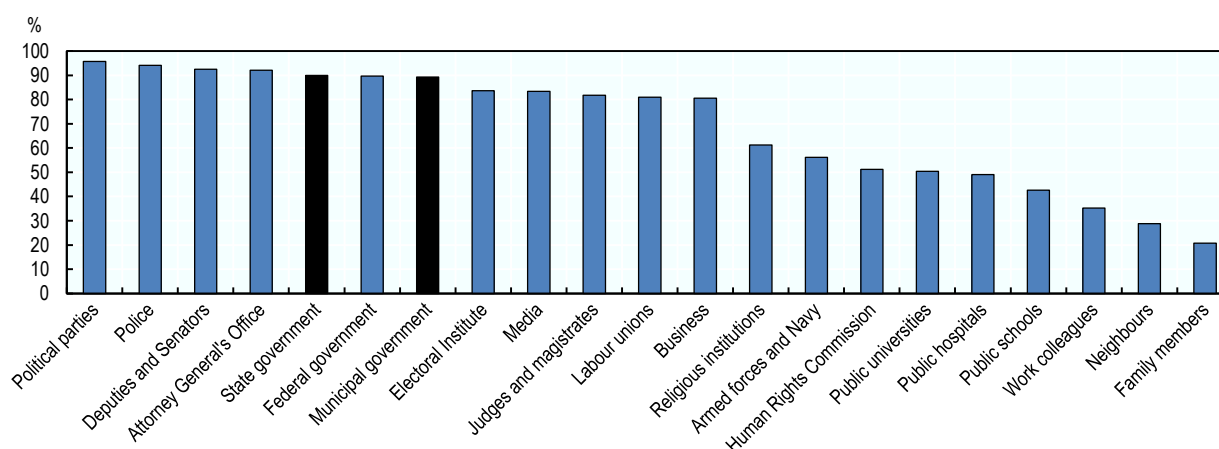
Corruption is a multi-level issue that concerns every level of government. In Mexico, the competences for nine out of the ten procedures perceived to be most corrupt are spread across multiple levels of governments or are the responsibility of municipalities (Table 1.2). Opportunities for certain types of corruption tend to be more common at sub-national levels. In Mexico City, 89% of citizens surveyed say they believe that corruption is frequent or very frequent in state and municipal government (Figure 1.3).

Table 1.2. Administrative procedures perceived to be most susceptible to corruption in Mexico

Administrative procedure	Corruption perception (%)	Level of government responsibility
Administrative offences (<i>Faltas administrativas</i>)	37	Multi-level
Traffic violations (<i>Infracción por incidente de tránsito</i>)	35	Multi-level
Parking violations (<i>Infracciones al estacionarse</i>)	28	Municipal
Land use permits (<i>Permiso de uso de suelo</i>)	19	Municipal
Request for cleaning service (<i>Solicitud de servicio de limpieza</i>)	18	Municipal
Proof of vehicle polluting substances (<i>Verificación vehicular de contaminantes</i>)	16	State
Request for water pipeline (<i>Solicitud de una pipa de agua</i>)	12	Multi-level
Procedures in the Office of the Attorney (<i>Trámites ante el ministerio público</i>)	11	Multi-level
Permit for street-selling (<i>Permisos para vender en vía pública</i>)	8	Municipal
Border procedures (<i>Trámites de aduana</i>)	5	Federal

Source: IMCO, with data from Encuesta Nacional de Calidad e Impacto Gubernamental (ENCIG) 2015, adapted from http://imco.org.mx/indices/documentos/2015_IHE_Presentacion.pdf.

Figure 1.3. Percentage of respondents who believe corruption is “very frequent” or “frequent” in Mexico City, by institution/sector, 2015



Source: INEGI (2015), *Encuesta Nacional de Calidad e Impacto Gubernamental 2015*, <http://www.beta.inegi.org.mx/proyectos/enchogares/regulares/encig/2015/>.

During the OECD’s fact-finding mission in Mexico City, it emerged that representatives from the territorial demarcations (*delegaciones*) had only a limited awareness of the upcoming anti-corruption reforms and, in general, had not successfully “downloaded” integrity policies at the local level. By including the territorial demarcations in the Co-ordination Committee as a member without vote, Mexico City could help to close this information gap. The territorial demarcations were encouraged to contribute to the work of the SLAC-CDMX, in accordance with Article 10 of the SLAC-CDMX Act, which establishes that the heads of the territorial demarcations² shall be permanent guests of the meetings of the Co-ordinating Committee, with the right to speak only.

In addition, the Executive Secretariat could help the territorial demarcations to build capacity and develop the necessary expertise to run the Anti-corruption System on the municipal level. The Secretariat could conduct a preliminary assessment of existing integrity policies and strategies among territorial demarcations. Based on this information, capacity, funding and policy gaps could be identified and mechanisms to involve the territorial could be designed. A working group of territorial demarcations could be set up to build implementation capacity and create a channel of communication for exchanging good practices. The technical secretary could convene these meetings and provide technical expertise on any difficulties encountered during implementation. Given the limited number of territorial demarcations and the size of Mexico City compared to other states, these regular meetings should not present an organisational problem.

1.2.6. Mexico City will have to allocate adequate financial and human resources to the Local Anti-corruption System to guarantee its effectiveness.

The high-level commitment to the new structure will be mirrored by the financial and human resources dedicated to the SLAC-CDMX. The importance of adequate and reliable funding to carry out the mandate is fundamental. Establishing the SLAC-CDMX will create new institutions and new tools and also demand additional resources from the existing institutions. In addition, the Executive Secretariat will need to be allocated adequate resources to ensure its independence and minimise the risk of undue influence.

Although the greater co-ordination foreseen by the system will create synergies, the reform will make additional financial resources necessary. This will include:

- New institutions, such as Mexico City’s Administrative Justice Tribunal (*Tribunal Estatal de Justicia Administrativa de la Ciudad de México*) and Specialised Anti-corruption Prosecutor (*Fiscalía Especializada de Combate a la Corrupción*);
- New horizontal activities such as the Digital Platform (*Plataforma Digital*);
- Scaling up of staff and activities within already existing institutions;
- Strengthening co-ordination mechanisms, with municipalities and the federal level.

Under the General Law of the National Anti-corruption System (Article 26) and the Law of the Local Anti-corruption System of Mexico City (Article 29), the Executive Secretary relies on assets from the government, yearly resources from the state budget and goods transferred. It is unclear how the resources are distributed between the action plan activities and staffing/operation of the Executive Secretariat and Commission. It is also not clear how the fee for participants in the Citizen Participation Committee (*contratos de prestación de servicios por honorarios*), the salary for the staff of the Technical

Secretariat, as well as the activities of the Co-ordination Committee are budgeted for. For example, on the national level, the five members of the Citizen Participation Committee will receive a monthly salary of MNX 100 000 (EUR 4 986). If this is the case, the salaries for the Citizen Participation Committee alone would amount to MNX 6 million (EUR 299 176), which has not been budgeted for (Molina, 2017^[8]).

In July 2016, the Inter-institutional Preparatory Council for the Implementation of the Anti-corruption System of Mexico City (*Consejo Interinstitucional Preparatorio para la Implementación del Sistema Anticorrupción de la Ciudad de México*, or COIPISA) calculated an overall cost of MNX 131 million (around EUR 5.6 million) for the Local Anti-corruption System in 2017 (Proceso, 2016^[9]). Similarly, at the national level, the Finance Research Centre of the Chamber of Deputies estimated that the national framework of the National Anti-corruption System would cost around MNX 1.5 billion, or around EUR 65 million (García, 2016^[10]). Mexico City's budget for 2017 did not foresee any budget for creating the Local Anti-corruption System of Mexico City, although secondary legislation was passed on 1 September 2017. However, for 2018, the Expenditure Budget of Mexico City (*Presupuesto de Egresos de la Ciudad de México*, or PECDMX)³ awarded MNX 287 million (equivalent to approximately EUR 12.3 million) for the implementation of the Anti-corruption System of Mexico City, of which MNX 39 million was granted to the Ministry of Government of Mexico City (Article 16, PECDMX), MNX 100 million to the Comptroller-General's Office (Article 17, PECDMX), MNX 48 million to the Attorney-General (Article 18, PECMDX) and MNX 100 million to the Administrative Justice Tribunal (Article 19, PECDMX). In all cases, the resources were allocated to these agencies to implement the SLAC-CDMX within the scope of their competencies. An assessment of financial needs will need to be conducted in subsequent years and the continuation of funds ensured, to guarantee the operation of the system.

1.3. Managing the risk of undue influence of appointments

1.3.1. To shield the Technical Secretary from undue influence, Mexico City could mandate that the Governing Body of the Local Anti-corruption System have the authority to appoint and remove the Secretary.

The Technical Secretary, who heads the Executive Secretariat and acts as the Secretary of the Co-ordination Committee, is responsible for executing and follow-up on the decisions of the Co-ordination Committee. In addition, this officer prepares the meetings of the Co-ordination meeting on the technical level. Given the sensitivity of integrity policies and its high political relevance, the Technical Secretary may need to provide expertise for and execute decisions that affect powerful vested interests (OECD, 2017^[7]).

Quite apart from the risk of political interference, international experience shows that integrity policies, especially preventive measures, require coherence and continuity over a long period before they show any impact. Clearly, regulating the position and protecting it from arbitrary removal and from short-term political fluctuations ensures continuity (OECD, 2017^[6]). In the context of the SLAC-CDMX, such continuity is particularly important. Given that the presidency of the Co-ordination Committee rotates each year among the members of the Citizen Participation Committee, this is not easy to ensure.

Under the Law on the Local Anti-corruption System (Article 33), the Technical Secretary will be appointed by the Congress of Mexico City, based on the proposal by the Commission on Transparency and Corruption and the Commission on Accountability and

Control of the Supreme Audit Institution, and confirmed by simple majority of the present members of Congress. Similarly, the Congress can remove the Technical Secretary. This appointment and removal process is at variance with the process at the federal level, and as such, could be challenged in court. Crucially, this procedure should be reviewed for technical reasons. Mandating Congress to appoint and remove the Technical Secretary makes the appointment a political process vulnerable to political influence. This is further exacerbated by the fact that the criteria required for the position as set by the law does not specify, as has been stipulated at the federal level, that the candidate shall not be affiliated with any political party.

The Governing Body of the Executive Secretariat, representing all members of the Anti-corruption System, would be best equipped to select a Technical Secretary, based on technical expertise and experience. Given the important role the anti-corruption system has allocated to civil society through the Citizen Participation Committee, the Committee should take the leading role in the appointment and removal process.

Mexico City could consider a legal reform granting the Citizen Participation Committee the authority to submit three candidates for the position to the Government Board for ratification. This procedure would safeguard the appointment and removal from undue political interest. In addition, it would follow the national model, which mandates that the Governing Board appoint and remove the Technical Secretary. Furthermore, the stipulation that the official have no affiliation with a political party could be introduced to safeguard against political interference.

1.4. Improved accountability through a whole-of-society approach

1.4.1. The Citizen Participation Selection Commission and members of the Citizen Participation Committee should be appointed under clear and transparent criteria and held accountable to the same integrity standards as public servants.

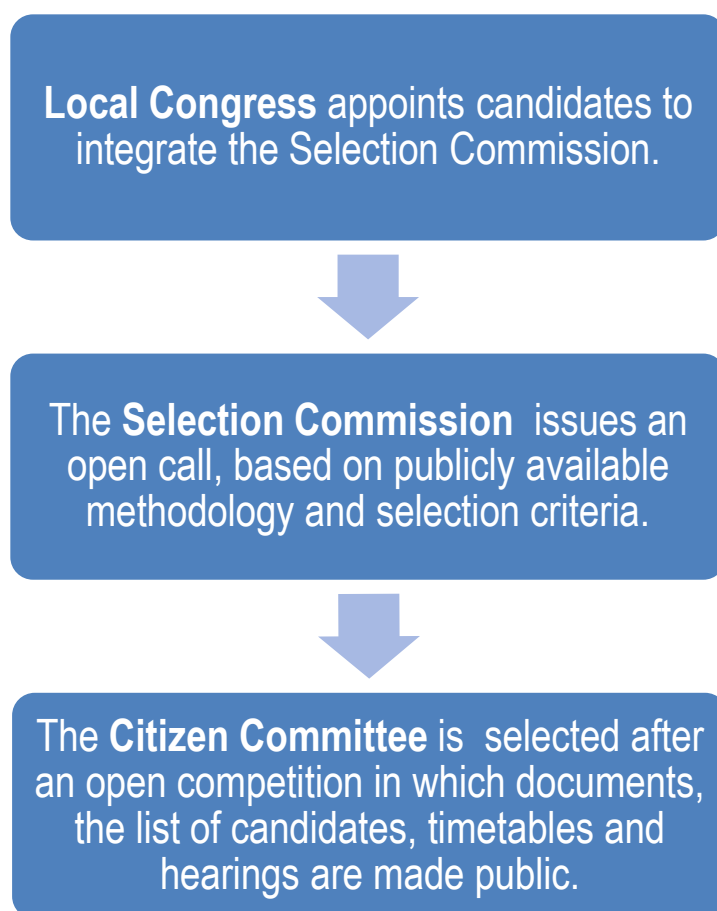
Article 63 of the Constitution of Mexico City provides for a Citizen Participation Commission, made up of five individuals independent of the Government of Mexico City and known for their expertise and commitment to transparency, accountability and the fight against corruption. The Law of the Local Anti-corruption System mirrors the structure set up under the General Law of the National Anti-corruption System.

The Constitution and the Law on the Local Anti-corruption System give civil society a leading role in overseeing implementation of the anti-corruption system. A representative of the Citizen Participation Committee presides over the system's Co-ordination Committee and Governing Board. The Citizen Participation Committee also sits on the Executive Commission, which is tasked with producing a yearly annual report on the activities and progress of anti-corruption initiatives.

The institutional framework fulfils the principles of the OECD Recommendation (OECD, 2017^[3]) to involve society at large in building a public integrity system, updating and involving stakeholders regularly in its operation. However, as noted by a leading research and investigation centre in Mexico (Fundar), one of the main challenges in implementing the Local Anti-corruption System is the configuration of the Citizen Participation Committee, which should include substantial mechanisms ensuring that citizens are in fact representative of the local systems (Animal Político, 2017^[11]).

The members of the Citizen Participation Committee are selected by a Citizen Selection Commission consisting of members of civil society specialised in anti-corruption, accountability and audit, and representatives of higher education institutions, who are selected by Congress (under Article 18 of the Law on the Local Anti-corruption System) (Figure 1.4).

Figure 1.4. The selection process of the Citizen Participation Committee



The Congress has a decisive role in the final selection of the members of the Citizen Participation Committee, because it selects the members of the Citizen Selection Commission. Selection of the Commission should thus be conducted according to transparent criteria, to ensure the inclusiveness of the process. Mexico City could set some basic criteria for the selection of the Citizen Participation Commission, to counteract the perception of undue influence. For example, in Nuevo León, the Law on the Anti-corruption System clearly sets out this process. In that instance, civil society is deputed to propose candidates, whose qualifications are assessed by the Anti-corruption Commission of Congress, which selects three candidates. These are proposed to Congress, which has the final vote. In addition, the law stipulates the qualifications required of each candidate. Mexico City could consider a similar amendment to the law. Congress could also consider providing additional information on why and how (methodologies, documents, list of candidates, planning, hearings) the members of the Selection Commission were selected. An *ad hoc* online portal could increase citizens'

awareness and participation, and also scrutiny of the selection process led by the Legislative Power.

In fact, the Legislative Assembly, through the Agreement between the Commission on Transparency and Corruption and the Commission on Accountability and Control of the Supreme Audit Institution, has published the call for candidates for the Selection Committee. Among the eligibility requirements are: Mexican citizenship, exercising full political and civil rights, residency in Mexico City, having a good reputation and not having been convicted for fraud, falsification, abuse of confidence and similar breaches that could seriously harm its public reputation, possession of voting credentials with a photo, not having held the position of a Minister of the State, Attorney-General of the Republic, senator, member of the federal or local legislative, governor of a state or head of Mexico City, and having contributed to oversight, accountability and the fight against corruption.

The call for candidates and the documents on the integration of the Anti-corruption System have been published online (<http://infodf.org.mx/anticorrupcion/index.html>). Mexico City has taken an important step towards ensuring the transparency of the process. These criteria could be included in the law, to ensure their consistent application.

Similarly, the Selection Commission could consider providing additional information on all candidates for the Citizen Participation Committee, such as:

- methodology for assessing candidates;
- list of candidates;
- documents submitted by candidates;
- chronology of hearings;
- deadline for taking a decision and justifying the final decision.

In addition, members of the Citizen Participation Committee should adhere to the same integrity standards as any other public servants, file all three mandatory declarations and disclose any real or potential conflict of interest. These declarations could be made public on the Digital Platform.

1.4.2. Inviting the private sector to meetings of the Citizen Participation Committee would ensure a more inclusive public integrity system based on the concerns of society at large.

The anti-corruption system aims to involve civil society in the public integrity system. An inclusive approach can improve the design and impact of integrity policies, since policies can benefit from the varied expertise of more stakeholders. Similarly, it can help to create public awareness of the benefits of public integrity, which could be coupled with civic education on public integrity in schools (see Chapter 5. on whole-of-society/education).

While this involvement is a positive step, the anti-corruption system, both on the national level and in Mexico City, does not involve the private sector and as such, excludes a core group of stakeholders. Corruption often occurs at the intersection between public and private interactions, as well as between private sector actors. Excluding the private sector may mean that the system fails to address a large proportion of the corruption in Mexico. Alternatively, the lack of buy-in from the public could threaten its implementation (OECD, 2017^[3]).

The Citizen Participation Committee could thus invite private sector representatives to its meetings, and consult with them regularly on the technical level. Implementation of initiatives involving the private sector should also include civilians as partners. This would generate greater awareness and encourage buy-in from the private sector. Colombia and Peru (Box 1.4) have taken a multi-stakeholder approach to ensure a whole-of-society approach (engaging religious institutions, media and the trade unions) to fighting corruption.

Box 1.4. Government and non-government stakeholders in National Anti-corruption Commission

Colombia

The Anti-corruption Statute established the National Committee for Morals (CNM), a high-level mechanism to co-ordinate strategies to prevent and fight corruption. The CNM is a multi-partite body composed of the President of the Republic, the Inspector-General, the Prosecutor-General, the Comptroller-General, the Auditor-General, the head of Congress and the President of the Supreme Court, among others. The National Committee for Morals is responsible for information and data exchange among the bodies mentioned above in order to fight corruption, and it also establishes mandatory indicators to assess transparency in the public administration. It adopts an annual strategy to promote ethical conduct in public administration, including workshops, seminars and pedagogical events on such topics as ethics and public morality, as well as the duties and responsibilities of public officials.

The same Anti-corruption Statute of 2011 created the National Citizens Committee for the Fight against Corruption (CNCLCC). This represents Colombian citizens in assessing and improving policies to promote ethical conduct and curb corruption in both the public and the private sectors. The committee includes representatives of a wide array of sectors, such as business associations, NGOs dedicated to the fight against corruption, universities, media, social audit representatives, the National Planning Council, trade unions, and the Colombian Confederation of Freedom of Religion, Awareness and Worship. CNCLCC issues a yearly report on anti-corruption policy evaluation, and it promotes codes of conduct for the private sector – especially to prevent conflicts of interest. It closely monitors the measures taken in the Anti-corruption Statute to improve public management as well as public procurement, the anti-paperwork policy, the democratisation of Public Administration, access to public information and citizen services, and it also promotes the active participation of social media in reporting corruption.

Peru

Peru's High-level Anti-corruption Commission (*Comisión Alto-nivel de Anti-corrupción*, or the CAN) was established by Law No. 29976 and its regulation in Decree No. 089-2013-PCM, which also outlines the CAN's mandate and responsibilities. The CAN's main activities are organising efforts, co-ordinating actions of multiple agencies, and proposing short-, medium-, and long-term policies directed at preventing and curbing corruption in the country.

As in Colombia, the CAN is integrated with public and private institutions and civil society and co-ordinates efforts and actions on anti-corruption. Non-governmental

actors include representatives of private business entities, labour unions, universities, media and religious institutions. Bringing diverse stakeholders regularly together around the table aims at encouraging the horizontal co-ordination and guaranteeing the coherence of the anti-corruption policy framework, but also contributes to protecting the CAN from undue influence by narrow interests.

Table 1.3. Composition of the CAN

Members with vote (10)	Members with voice but without vote (11)
<ul style="list-style-type: none"> • President of Congress (<i>Congreso de la República</i>) • President of the Judiciary (<i>Poder Judicial</i>) • President of the Cabinet Office (<i>Presidencia del Consejo de Ministros, PCM</i>) • Minister of Justice and Human Rights (<i>Ministerio de Justicia y Derechos Humanos</i>) • President of the Constitutional Court (<i>Tribunal Constitucional</i>) • President of the National Council of the Judiciary (<i>Consejo Nacional de la Magistratura</i>) • Attorney-General (<i>Fiscalía de la Nación</i>) • President of the National Assembly of Regional Governments (<i>Asamblea Nacional de Gobiernos Regionales</i>) • President of the Association of Municipalities (<i>Asociación de Municipalidades</i>) • Executive Secretariat of the National Agreement (<i>Acuerdo Nacional</i>) 	<ul style="list-style-type: none"> • Comptroller-General (<i>Contraloría General de la República, CGR</i>) • Ombudsman (<i>Defensoría del Pueblo</i>) • Executive Director of the Supervisory Body of Public Contracting (<i>Organismo Supervisor de las Contrataciones del Estado, OSCE</i>) • President of the National Assembly of Deans (<i>Asamblea Nacional de Rectores</i>) • President of the National Council for Public Ethics (<i>Consejo Nacional para la Ética Pública, Proética</i>) • President of the National Confederation of Private Business Entities (<i>Confederación Nacional de Instituciones Empresariales Privadas</i>) • Representative of the labor unions of Peru • Representative of the Catholic Church • Representative of the Evangelical Church • Executive Director of the Peruvian Press Council (<i>Consejo Prensa Peruana</i>) • General Co-ordinator of the CAN (<i>Coordinador General de la CAN</i>)

Source: <https://plataformaanticorrupcion.pe/iniciativas/comision-de-alto-nivel-anticorrupcion/>.

Sources: (OECD, 2017^[6]), *OECD Integrity Review of Colombia*, OECD Publishing, Paris; (OECD, 2017^[11]), *OECD Integrity Review of Mexico*, OECD Publishing, Paris; (OECD, 2017^[5]), *OECD Integrity Review of Peru*, OECD Publishing, Paris.

Proposals for action

The Local Anti-corruption System of Mexico City is an important step towards developing a coherent and comprehensive integrity system. However, challenges involved in the implementation process and in the subsequent operation of the system persist. Therefore, the OECD recommends that Mexico City consider taking the following actions:

The Local Anti-corruption System: Creating clear responsibilities and strengthening co-ordination

- Mexico City could consider including the Council for Evaluation and the Control Body of the Congress in the Co-ordination Committee, given their expertise.
- The Co-ordination Committee could broaden its membership and invite other key integrity actors on a regular basis.
- To reinforce the impact of the Local Anti-corruption System, two technical sub-commissions of the Executive Commission, on prevention and detection/punishment, could be established.
- Creating a dedicated contact point for the anti-corruption system in the entities of the government would streamline implementation of policies throughout the government.
- To ensure the implementation of the Anti-corruption System at the local level, the Executive Secretariat could provide implementation support to the territorial demarcations (*alcaldías*) and thus guarantee a feedback mechanism.
- Mexico City will have to allocate adequate financial and human resources to the implementation and operation of the Local Anti-corruption System to guarantee its effectiveness.

Managing the risk of undue influence of appointments

- To shield the appointment and removal of the Technical Secretary from undue influence, Mexico City could mandate that the Governing Body of the Local Anti-corruption System appoint and remove the Secretary.

Improved accountability through a whole-of-society approach

- The Citizen Participation Selection Commission and the members of the Citizen Participation Committee should be appointed on the basis of clear and transparent criteria and held accountable to the same integrity standards as public servants.
- Inviting members of the private sector to the meetings of the Citizen Participation Committee would help ensure a more inclusive public integrity system, based on the concerns of society at large.

Notes

¹ Article 29.E.6 of the General Constitution of Mexico City establishes that the Congress of Mexico City shall have an internal control body that shall exercise its functions within the framework of the national and local anti-corruption system. The head of the internal control body shall be appointed by two thirds of the members of Congress, from a list of three candidates proposed by the Citizen Participation Committee of the Anti-corruption System. In the event that the Congress rejects the proposal, the Committee will submit a new proposal within 30 days. If the second three candidates are rejected, one of the three proposed candidates will be chosen at random. So far, no other regulations have been issued on the functions and co-ordination schemes of the Control Body of the Congress.

² As a result of the new Constitution of the Mexico City issued on 5 February 2017, which was to take effect on 17 September 2018, Mexico City will cease to be a Federal District and become a Federal Entity. As a result, the territorial demarcations will be transformed into municipalities.

³ The Expenditure Budget of Mexico was consulted on 17 April 2018 at the following link: https://data.consejeria.cdmx.gob.mx/portal_old/uploads/gacetas/97e4e819c6cf113706e3340105929a52.pdf.

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Chapter 2. Developing a strategic approach to public integrity in Mexico City

This chapter assesses Mexico City's current monitoring and evaluation framework for integrity policies. It provides an overview of how the recently established Local Anti-corruption System can formulate a monitoring and evaluation framework. Evidence generated through monitoring and evaluation makes it possible to assess the performance and the progress of the anti-corruption system. From this data, lessons can be drawn that can be used to strengthen the system.

2.1. Introduction

Setting strategic objectives and priorities for the public integrity system, based on evidence aimed at mitigating public integrity risks, can help develop a strategic approach to strengthening public integrity (OECD, 2017^[1]). Such an approach shifts the focus from *ad hoc* integrity policies to a behavioural, risk-based approach to strengthening integrity that is better equipped to adapt to the context on the ground.

The sustainability of integrity policies as governments come and go is not always a given. It may be constrained by vested interests, a lack of strategic planning and co-ordination, the absence of institutional arrangements, insufficient financial and human resources and inadequate risk management processes, all of which severely dilute the impact of integrity policies. In addition, integrity systems often fail to build in a monitoring and evaluation mechanism to measure the outputs and outcomes of their policies over time.

Until now, Mexico City has not had an explicit integrity strategy, or integrity policies based on a strategic approach based on indicators and data. One of the priority areas for action of the General Programme of Development 2013-2018, however, is effectiveness and accountability in the fight against corruption. In this area, six opportunity areas have been identified: 1) better regulation and administrative simplification; 2) planning, evaluation and results-based budgeting; 3) use of information and communication technology (ICT); 4) transparency and accountability; 5) strengthening of public finances; and 6) professionalisation of the public service. While the inclusion of anti-corruption as a separate pillar is positive, Mexico City has not developed an action plan defining the sequencing of measures or detailing institutional responsibilities for implementing the strategy.

By creating the Local Anti-corruption System (*Sistema Local Anticorrupción*, or SLAC-CDMX), Mexico City has created a strong institutional framework for strengthening integrity, with clear institutional arrangements (see Chapter 1.). The mandate of the Co-ordination Committee to approve, design, promote and evaluate integrity policy is an opportunity for Mexico City to build a strategic approach to integrity by setting objectives and priorities for the system based on relevant data. This should be reflected in the annual action plan drafted by the Co-ordination Committee.

Many integrity policies and strategies fail thanks to a lack of communication between those who design the strategies and those assigned to implement the measures. Public institutions with the mandate to implement specific preventive anti-corruption measures need to feature prominently at the design stage and to be held responsible for the results. This means that the political leadership of the country needs to demand this actively from its public sector chief executives, and hold them accountable for progress (Hussmann, 2007^[2]).

In Mexico City, the representation of all the government entities responsible for integrity policies and civil society in the Co-ordination Committee create the basis for a broad coalition of support for the strategy. This can help reduce the vulnerability of the approach to leadership changes. Through their role in the Co-ordination Committee, the institutions can take an active part in shaping a strategic approach to integrity. This is a precondition for creating ownership for the strategy and for the subsequent implementation of the policy.

2.2. Developing a strategic approach to public integrity

2.2.1. The Co-ordination Committee could conduct a preliminary diagnosis of priority areas, by leveraging the data provided by the National Institute for Statistics and Geography and other expert assessments of corruption.

The first step in designing a coherent and comprehensive public integrity strategy is to analyse information on the current extent and nature of the problem. Typical questions would include, for example: Which sectors are most affected? What kind of harm is the lack of integrity causing? In which government entities is corruption most prevalent? Using an extensive knowledge and information base, the strategy and subsequent action plan can be focused and practical, help design policies and policy instruments for priority areas and ensure the correct prioritisation and sequencing of action. This information base can also ensure monitoring and assessment of the strategy, creating a baseline against which progress can be measured. The diagnostic can include detailed surveys and public opinion polls, expert corruption assessments, focus group discussions and sectorial assessments (Box 2.1).

Box 2.1. Diagnosing the problem in Lithuania

In Lithuania, an initial diagnostic was made before drafting the anti-corruption strategy. Chapter II of the current anti-corruption strategy provides a preliminary diagnosis of Lithuania's anti-corruption environment, including a review of sociological surveys, analysis of the previous anti-corruption plan, summaries of proposed sectors with the highest risk of corruption, and a review of political and legal factors. Lithuania uses a range of national sociological and factual surveys. The data deals with sector-specific information on such subjects as health care, the judiciary, police and municipalities (the sectors still judged to be the most corrupt). They actively track opinions and data from the business community on different aspects of corruption. This might include reporting corruption, experiencing corruption, opinions on who is to blame for the corruption, opinions on the most effective remedies, and whether corruption is increasing or decreasing.

Source: (Pyman, M. et al., 2017^[31]), "Countries curbing corruption: Research comparing 41 national anti-corruption strategies – Insights and guidance for leaders", Norton Rose Fulbright.

Mexico's National Institute for Statistics and Geography (*Instituto Nacional de Estadística y Geografía*, or INEGI) has created a wealth of information on the extent of corruption as measured by citizens' perception. This includes the perception of which government entity and sector is most corrupt, how often citizens were asked to pay a bribe and for which action, and an estimate of the cost of corruption. Internal staff surveys and data, for example, on penalties, staff cost or staff fluctuations and lessons from earlier policy approaches could provide additional information for a diagnostic. The review and recommendations would also be essential input for the initial diagnostic. Leveraging this knowledge base could help the Co-ordination Committee gain a detailed picture of the strengths and weaknesses of the current approach and could help conduct a systematic corruption risk assessment. For example, data on high staff turnover could present a higher risk of corruption, which would need to be taken into account in developing policy.

This risk assessment could help guide the overall goal of the policies and priority areas. Armed with this diagnostic, the Co-ordination Committee would be in a position to design a strategic approach to integrity, combining mutually reinforcing reforms that ultimately build into a comprehensive programme. This strategic approach should clearly define the impact that the Co-ordination Committee intends to achieve. General statements, e.g. combating corruption, should be disaggregated as much as possible into clear and measurable outcomes, to facilitate the subsequent monitoring and evaluation of the policies. Where possible, these should be translated into policy goals for the overall anti-corruption system and the government entities. The Co-ordination Committee could develop the annual work plan on this basis, with clear responsibilities assigned for each identified policy goal.

2.2.2. The Action Plan would need to be translated into a plan tailored to each government entity and included in its Annual Operational Programme.

The cornerstone of the success of the SLAC-CDMX will be to make sure that the design and purpose of integrity policies are clearly defined and implemented at the administrative level. While general overarching policies will be designed by the Co-ordination Committee, the organisational policies, measures and guidelines will require commitment from each government entity. To ensure this commitment, the responsibilities should be clearly spelled out in the Action Plan. In addition, the plan needs to include strategic objectives of the policies and information on the chain of results, resources needed for each measure by entity, and the timeline for implementation.

The Action Plan could also be complemented by organisational-level strategies addressing the specific integrity risks unique to individual organisations. The local Co-ordination Committee could oblige public sector entities to adopt their own risk-based approach towards integrity by conducting both fraud and corruption risk-mapping exercises and corresponding integrity plans of individual public sector organisations. This is the case in Latvia, where each ministry develops its own corruption prevention plan, or in the United States, where each government entity has its own ethics programme (Box 2.2).

Box 2.2. Corruption prevention plans at the institutional level

Several OECD member and partner countries require that individual line ministries or departments prepare corruption prevention plans that are tailored to their organisation's specific internal and external risks. Every organisation is different, and risks for fraud and corruption thus vary, depending on mandate, personnel, budget, and infrastructure or IT use. For example, line ministries responsible for transferring social benefits face higher risks of fraud; likewise departments with higher public procurement spending (such as health or defence) may face risks of corruption associated with procurement. In addition to ensuring that prevention policies are developed on a risk-based basis, such plans also help guarantee that, where relevant, organisations' anti-corruption efforts are aligned with national and sectorial strategies.

Some countries thus complement national anti-corruption plans with organisational level strategies. In **Latvia**, for example, each ministry has a corruption prevention plan, with oversight of the national anti-corruption agency, the Corruption Prevention and Combating Bureau (*Korupcijas noversanas un apkarosanas birojs*, known as the KNAB).

In **Lithuania**, the Special Investigation Service (SIS), an independent anti-corruption law enforcement body, is responsible for monitoring the implementation of the National Anti-corruption Programme, along with the Interdepartmental Commission on Fighting Corruption, led by the Department of Justice. The SIS co-ordinates risk-management activities throughout the public sector. Each public institution is required to design its own risk map, which is submitted to the SIS for review. The SIS provides guidance and comments to improve these plans.

In **Slovenia**, the Commission for the Prevention of Corruption assists organisations in developing unique integrity plans, which identify, analyse and evaluate risks and propose appropriate mitigation measures. The Commission urges departments to adopt an inclusive approach in the development of their plans, since it was found that they offered an opportunity to effectively communicate values and enhance a shared understanding of integrity. The commission provides guidance, such as sample integrity plans, on its website.

In the **United States**, the Office of Government Ethics (OGE) conducts reviews on government agencies' ethics programmes about once every four years. These Ethics Programme Reviews are OGE's primary means of conducting systematic oversight of the executive branch's ethics programme. The Compliance Division's Programme Review Branch conducts ethics programme reviews at each of the more than 130 executive branch agencies. This helps ensure that the ethics programme complies consistently and sustainably with established executive branch ethics laws, regulations and policies, and provides recommendations for meaningful programme improvement. Individual reviews identify and report on the strengths and weaknesses of an agency's ethics programme by evaluating 1) agency compliance with ethics requirements, as set forth in relevant laws, regulations, and policies; and 2) ethics-related systems, processes and procedures for administering the programme.

In **Colombia**, individual organisations are required to institute their own risk maps and anti-corruption plans. The Anti-corruption Statute directs public entities of all kinds to produce a strategy at least annually to combat corruption and improve citizen service. These plans are based on the criteria defined by the Secretariat of Transparency of the Presidency of the Republic.

Sources: (OECD, 2017^[1]), *OECD Recommendation of the Council on Public Integrity*; (OECD, 2017^[4]), *OECD Integrity Review of Colombia*; OECD accession report of Lithuania (unpublished), OECD accession report of Latvia (unpublished), for the Office of Government Ethics, www.oge.gov/web/oge.nsf/Program%20Review.

In Mexico City, the Directorate for General Co-ordination for Administrative Modernisation (*Coordinación General de Modernización Administrativa*, or CGMA) in the Administrative Office of the Government of Mexico City, in co-ordination with the city's School of Public Administration, has also developed a methodological guide for developing the institutional and sectorial programmes derived from the General Development Programme (*Guía Metodológica para el Desarrollo de los Componentes de los Programas Derivados del PGDDF 2013-2018*). The entity programmes translate the content of the sectorial programme, derived from the General Development Programme, into objectives and aims in the medium and long term. It also contains indicators to assess the institutional targets. The following steps are mandatory for developing the institutional programme:

1. Taking into account the diagnostic assessment of the sectorial programme;
2. Taking up the objectives of the sectorial programme corresponding to the institution;
3. Establishing quantifiable institutional targets based on the sectorial targets;
4. Elaborating indicators;
5. Determining policies on the institutional level that address the areas of opportunities of the General Development Programme;
6. Presenting the Institutional Programme to the head of government for approval, and publishing it in the Official Gazette.

While the framework seems well developed, it emerged during the interviews with stakeholders for this review that there was relatively little awareness of the existence of this monitoring and evaluation programme and in particular a limited degree of technical knowledge. This raises doubts to how effectively the General Development Programme is applied on an institutional level.

In Mexico City, the integrity plans of each government entity should form part of the Annual Operational Programme. For example, one of the risk factors identified might be an absence of rules and procedures that promote ethical behaviour and transparency. If this leads to ethical misconduct, one line of action in the Annual Operational Programme should be promoting ethical conduct in the entity. For this line of action, clear measures should be identified in the plan. A code of ethics should be introduced, or if one exists, it should be better publicised. The Supreme Audit Institution of Mexico City (*Auditoría Superior de la Ciudad de México*) and the Office of the Comptroller-General of Mexico City (*Contraloría General de la Ciudad de México*) could assess the quality of maps and plans on the basis of their prior audits (OECD, 2017^[5]).

2.2.3. The Co-ordination Committee could develop a sub-strategy for sectors identified in the initial diagnostic as presenting a particular integrity risk.

A whole-of-government approach to integrity requires a broad local anti-corruption plan that covers integrity measures outside the public sector. The action plans should also specifically address, and urgently update, public sector integrity measures that may warrant a separate sub-strategy of their own. These should be tailored to the specific integrity risks of sectors, organisations and officials, which may require the creation of public integrity subsystems (OECD, 2017^[5]). Sectors that could benefit from a specific integrity strategy would include the health sector and public procurement (see Chapter 7.). For example, the Public Services and Procurement Canada 2017-18 Departmental Plan identified fraud and corruption as a key risk factor that could affect the effectiveness of the plan. To mitigate this risk, Public Services and Procurement Canada has devised an Integrity Programme that provides the government of Canada services and programmes that support sound and ethical management. Integrity was thus incorporated into the annual operational plan on public procurement. Furthermore, clear performance indicators were created to measure how effective the programme was at achieving the desired outcome (Table 2.1).

Table 2.1. Measuring the effectiveness of integrity programmes in public procurement in Canada

Expected results	Performance indicators	Targets	Deadline for achieving target	Actual results		
				2015-16	2014-15	2013-14
High-quality and timely integrity programmes and services that support fairness, openness and transparency in government operations.	Number of government departments that apply the integrity regime.	140	31/03/2018	N/A**	N/A**	N/A**
	Percentage of simple reliability screenings processed within 7 business days	85%	31/03/2018	71%	67%	68%

** “Integrity regime” is a new performance indicator that was not reported in previous years.

Source: Public Services and Procurement Canada 2017-18 Departmental Plan,

<https://www.tpsgc-pwgsc.gc.ca/rappports-reports/pm-dp/2017-2018/pm-dp-04-eng.html#a4>.

2.3. Monitoring and evaluation

2.3.1. The Executive Commission of the Local Anti-corruption System could invite the General Co-ordination for Administrative Modernisation to meetings to help draft the monitoring and evaluation framework.

As noted in the OECD Recommendation (2017_[1]), a strategic approach to public sector integrity is based on evidence, and aims to identify and mitigate public integrity risks. This can be achieved by careful planning and by setting strategic objectives and priorities following a risk-based approach. It further involves developing benchmarks and indicators and gathering credible, relevant data on the level of implementation, performance and overall effectiveness of the public integrity system (OECD, 2017_[1]). A monitoring and evaluation system can act as an assurance that integrity policies follow an evidence-based strategic approach, enabling continuous learning. The monitoring and evaluation programme will measure both the success of anti-corruption initiatives as well as the effects of failure. Evidence from monitoring or evaluation can also help target and guide current and future policies. It also makes it possible to detect challenges and problems in the implementation of the policy (OECD, 2017_[6]). Effective monitoring and evaluation create a feedback mechanism for policy design. On the one hand, they help focus on mainstreaming the public integrity system’s strategic goals. On the other hand, they feed back information from the implementation level to the policy design stage and allow for effective steering, informed decision-making and improved policy design (OECD, 2017_[6]).

Monitoring and evaluation strengthen accountability in the public integrity system, by making efforts and results measurable (Box 2.3). Determining whether the efforts have been successful, and benchmarking the different public entities can create public pressure to encourage integrity. Making the results public can create additional leverage to promote integrity policies (OECD, 2017_[6]).

Box 2.3. The difference between monitoring and evaluation

Monitoring refers to the process of collecting and analysing information on a policy's direct and intermediary **outputs**. Outputs are the direct results in the sphere immediately affected by the policy. What functions is the policy expected to implement? This question is typically answered at the output level. In some cases, outputs of a policy are self-evident to the degree that monitoring them becomes redundant. More information may then be obtained by monitoring the **intermediate output**. Intermediate outputs result from the policy at the first step of corollary inference. This means that they don't automatically result from the policy, but are likely to occur if the policy is implemented as intended. Often, the usage or uptake of an output is a valuable intermediate output to observe.

Evaluation, in turn, asks for a policy's mid- and longer-term **outcomes**. Outcomes are the indirect results of a policy in the final sphere of desired impact. They are indirect, since these outcomes are affected not only by the policy, but also by a range of other variables outside the control of the implementation process. They tend to capture the effect of a policy on social, economic or organisational variables. Due to the multiple factors influencing the desired outcome variable, the causal link between the specific policy and the observed outcome is usually not straightforward (i.e. an attribution gap occurs). While monitoring is often a continuous function, evaluation is a measurement endeavour specifically set up to investigate a certain policy's effect, with a causal attribution.

Source: (OECD, 2017^[6]), *Monitoring and Evaluating Integrity Policies*, OECD Publishing, Paris; (Mathisen et al., 2011^[7]), *How to monitor and evaluate anti-corruption agencies: Guidelines for agencies, donors and evaluators*, U4, Issue No. 8, Chr. Michelsen Institute, Bergen, Norway.

In Mexico City, the CGMA is responsible for the design and co-ordination of monitoring and evaluation policies in the public administration. The Guidelines for Monitoring and Evaluation of the Public Administration of Mexico City (*Lineamientos de Monitoreo y Evaluación de la Gestión Gubernamental de la Administración Pública de la Ciudad de México*), issued in 2016, define the criteria and procedures that each entity in the public administration is required to observe. On the online platform *Monitoreo CDMX*, government entities can upload the indicators for each entity. The CGMA develops the Monitoring Report of the General Development Programme according to the five focus areas, the area for opportunities and the type of programme for each government entity. The Monitoring Report then serves as the basis for the Evaluation Report. The reports are presented to the Mayor of Mexico City, the Comptroller's Office, the Ministry of Finance and the heads of the respective entities, which take the appropriate measures to ensure or improve fulfilment of the objectives.

Although a general monitoring and evaluation programme seems to exist, no specific monitoring and evaluation exercises appear to be focused on integrity policies. While the annual operational plans can include some integrity measures, which are evaluated to some degree, there is no overarching monitoring and evaluation framework for integrity. Mexico City could leverage the introduction of the SLAC-CDMX to establish such a framework. Under the Law of the Local Anti-corruption System of Mexico City, the

Executive Commission will be responsible for drafting a proposal on the methodology for measuring the impact of the integrity policies, based on quantifiable indicators. It will also draft the annual progress and results report on integrity policies and programmes. Given the related mandate of the CGMA, the two bodies will need to collaborate closely to avoid any overlap. As CGMA oversees the general monitoring and evaluation framework, CGMA could be responsible for ensuring that the specific integrity monitoring and evaluation framework is embedded in and aligned with the general framework. To this end, the Executive Commission could invite CGMA to the sessions in which the methodology for measuring the progress of the integrity policies is designed.

2.3.2. In developing the monitoring and evaluation framework, the Executive Commission could call on the technical expertise of the Executive Secretariat.

Each integrity policy typically has one or several goals. A goal reflects the change the policy wants to encourage. A policy could, for example, have the goal of promoting merit-based recruitment in a public administration unit. The first step of any measurement process is to identify the final goals and translate them into intermediate objectives. Objectives define the implications of a goal in a specific context. Each objective summarises one aspect of a goal positively and unambiguously in a single sentence. Ideally, they provide the *who*, *when*, *what* and *where* of a goal.

Goals, objectives and indicators can be defined at output as well as outcome levels. They can also be designed to assess certain qualities of an output or outcome, e.g. the value in relation to an input (see Box 2.4) (OECD, 2017^[6]).

Box 2.4. Example for outputs, intermediate outputs and outcome for an Integrity Code policy

Principle 4 of the 2017 *OECD Recommendation of the Council on Public Integrity* calls for “high standards of conduct for public officials” to be set by “including integrity standards in the legal system and organisational policies (such as codes of conduct or codes of ethics), to clarify expectations and serve as a basis for disciplinary, administrative, civil and/or criminal investigation and penalties, as appropriate”. One possible action for achieving this is the introduction of an Integrity Code for public officials. This table presents some potential goals, objectives and indicators that an Integrity Code could have on output and outcome level:

	Output	Intermediate Output	Outcome
Goals	Existence of a useful Integrity Code	Establish Integrity Code	Establish integrity as an organisational value
Objectives	Integrity Code: <ul style="list-style-type: none"> • exists • covers all relevant topics • is feasible 	Public officials: <ul style="list-style-type: none"> • know the Integrity Code and have been trained in using it • are initiating discussions on grey areas and ethical dilemmas • suggest solutions • Managers use the Code as a management tool, e.g. in interviews of candidates for positions in their team, or performance evaluation interviews. 	Public administration staff change their behaviour and make decisions based on the rules and principles of the Integrity Code.
Example indicator	<ul style="list-style-type: none"> • Identified risk areas are covered by the code • Staff at all managerial levels have participated in focus groups developing an Integrity Code 	<ul style="list-style-type: none"> • Number of integrity-related suggested improvements • Percentage of staff working in risk areas who have received risk-specific integrity trainings • All applicants to a vacant position are introduced to the Integrity Code before proceeding in the selection process 	<ul style="list-style-type: none"> • Integrity is measured in a staff survey

Source: (OECD, 2017^[6]), *Monitoring and Evaluating Integrity Policies*, OECD, Paris.

In order to set up a measurement methodology, the Executive Commission could identify the goals in the Annual Plan and translate them into objectives. For example, if the recommendation given in Chapter 6, “Implement a systematic risk management framework to strengthen the internal control framework”, is incorporated into the Annual Plan, this would be a goal on the output level, at the level of the government entity. The objective would be for each entity to develop a systematic risk-management framework. The longer-term outcome of the policy would be to identify integrity risks and combat corruption through targeted action. This outcome would have the long-term impact of reducing corruption in risk areas (for further details, see Annex 2.A). It is important that each objective translate the policy goal into a concrete action (OECD, 2017^[6]), both for the overall anti-corruption system and for the government entities.

2.3.3. The Executive Commission could enlist the technical expertise of the Executive Secretariat to develop indicators for the Annual Plan.

Indicators provide measures that attempt to analyse the objectives and measure whether an objective has been fulfilled. One objective can have several indicators. Carefully chosen indicators are at the heart of any monitoring and evaluation strategy. Ideal indicators are specific, measurable and realistic. An ideal indicator measures only one variable unambiguously and involves only a reasonable amount of effort to monitor. In addition, indicators can be used to specify and measure certain qualities of an objective, such as cost-effectiveness or the sustainability of the policy (Box 2.5).

Box 2.5. Indicators to monitor the performance of the Corruption Prevention and Combating Bureau of Latvia (KNAB)

The Corruption Prevention and Combating Bureau of Latvia (KNAB) was established in 2002 and has 142 staff members today. Performance indicators for the bureau are available in its *Progress and Results in Preventing and Combating Corruption in Latvia*. The following list of indicators can be derived from its narrative report:

- number of legislative proposals in the area of anti-corruption
- number of draft legal regulations presented
- number of new laws successfully introduced
- number of amendments to existing laws successfully adopted by parliament
- amount of money discovered to have been spent illegally on political party financing
- amount of money spent illegally on political party financing reimbursed by parties
- number of asset declarations analysed
- amount of money earned by people breaking the laws on conflict of interest and additional employment and discovered by the Association of Chartered Accountants (ACA)
- amount of money recovered by the ACA
- number of people convicted as a result of investigations by the ACA
- number of criminal proceedings forwarded to the prosecutor's office
- number of public servants trained on issues of conflict of interest, ethics and internal anti-corruption measures
- number of international requests for the ACA to provide its expertise abroad
- number of hosted delegations from ACAs abroad.

Source: (Mathisen et al., 2011^[7]), *How to monitor and evaluate anti-corruption agencies: Guidelines for agencies, donors and evaluators*, U4 Issue No. 8, Chr. Michelsen Institute, Bergen, Norway.

The Executive Commission would need to define indicators to measure whether the objective has been reached. Several indicators can be defined for each objective. The indicators transpose the objectives to the operational level. Using the earlier example of promoting merit-based human resources, one indicator might be the share of positions filled during the last six months that were available on the website for at least eight days prior to the application deadline (OECD, 2017^[6]).

In developing the indicators, the Executive Commission could invite government entities and experts to help identify relevant indicators. Stakeholder consultation improves the quality of the indicators and helps ensure that, at the end of the process, the evaluation findings will be considered credible by the parties involved. Through stakeholder involvement, the Executive Commission could also ensure that the indicators are measurable. Involving the members of the Citizen Participation Committee in the Executive Commission would help to establish a social control and to avoid setting the standard of the measurement indicators too low to be effective (OECD, 2017^[6]).

Throughout the monitoring process, the Executive Secretariat would act as the impartial monitoring unit, allowing for the interlinkage of the planning and the implementation level. The Executive Commission could also undertake an examination of available data sources, to assess their relevance, applicability, validity and reliability. It could consider collecting the data centrally through the anti-corruption system's Digital Platform. The Executive Secretariat would set the standard for data collection, upon which it could draw for its conclusions for the monitoring report. In its capacity to monitor the anti-corruption system, the Executive Secretariat would need to ensure that the government entities have the necessary capacity and knowledge to measure the data objectively and coherently.

Each government entity, in turn, would break these goals into specific objectives and indicators in its Annual Operational Programme, the organisational integrity plan. The entities would be required to report the results of the indicators to the Executive Secretariat of the SLAC-CDMX, which would use the data to create a Monitoring Report reporting to the Co-ordination Committee, as stipulated in the Law on the Local Anti-corruption System. Based on the monitoring report, the Co-ordination Committee could formulate recommendations for the entities on how to improve their integrity system.

Taking the earlier example of the recommendation "Existence of a systematic risk management framework", an example indicator would be the relative number of all public entities in Mexico City's public sector with a systematic risk management framework, and the existence of a central risk-mapping identifying the public institutions in Mexico City most at risk (for further details, see Annex 2.A).

2.3.4. The Co-ordination Committee could use the public annual report on the Anti-corruption System to report on progress of the Action Plan.

Using public praise or criticism, the Co-ordination Committee could attempt to harness the power of public opinion to encourage the government entities to implement the Action Plan. In its annual report on the progress and results of anti-corruption system, the Co-ordination Committee could publish reports on the level of implementation of integrity policies in the entities. This could include, for example, the introduction of a code of ethics at the entity level, the percentage of staff aware of ethical dilemmas and the guidelines on corruption, and other such issues. Ideally, this should be tied to the indicators used to monitor the Action Plan. Public reporting on the progress made in implementing integrity policies might encourage these government entities to improve their performance. Cultivating broad-based support for the local anti-corruption system

and its implementation among the public, the media and civil society organisations will also help with the mission of the Co-ordination Committee.

In Korea, the Anti-corruption and Civil Rights Commission (ACRC) develops a tiered ranking of how institutions perform according to performance groups (from 1 to 5, with 1 being the best-performing category). The tiered ranking of each institution and a consolidated report is released to the public. The results receive significant media attention, and institutions that score well enhance their organisational reputation. ACRC also provides each government entity with a specific report that includes suggestions for improvements (Lee and Lee, n.d.^[8]).

2.3.5. Mexico City’s Council for Evaluation of Social Development could be charged with developing the evaluation methodology of the impact of the Local Anti-corruption System, so that the Co-ordination Committee can draft binding recommendations for improvement.

To assess what the impact of policy measures are, a clear and measurable methodology for evaluation will need to be developed. In this way, the positive change a policy has created towards a policy goal and impact can be measured and assessed. Objectives and indicators for evaluation require the same qualities as for monitoring, but are defined on the outcome level (OECD, 2017^[6]).

Within the SLAC-CDMX, the Co-ordination Committee has the mandate to determine the methodology for impact evaluation. In the legislative proposal, this refers specifically to the work of the Internal Control Organs in evaluating the policies’ impact. However, when developing a specific evaluation framework, the Co-ordination Committee could consider adopting a more strategic approach. From the outset, it could set the priorities to evaluate certain policies whose effectiveness needs to be assessed, such as measuring the impact of whistle-blower protection on staff well-being. This would mean developing overarching objectives and indicators at the outcome level. Those outcomes would be long-term and involve the social and economic impact of the policy in relation to the long-term strategic goals of Mexico City’s General Development Programme. The objectives and indicators for the evaluation should be developed according to the same criteria as those for monitoring, but on the outcome level. For example, to evaluate a whistle-blower policy, one would look at the outcome level and assess whether a culture of integrity and accountability had been established, and whether individuals were confident in reporting fraud, misconduct and corruption.

To ensure the accountability and independence of the process, the methodology for the evaluation should be developed externally. The Council for Evaluation of Social Development of Mexico City (*Consejo de Evaluación del Desarrollo Social de la Ciudad de México*, or *EvalúaCDMX*), a decentralised public entity in charge of the external evaluation of social policies, could develop the evaluation methodology. The entity is working with a network of external evaluators from civil society and academia to conduct the evaluation of social programmes. In addition, *EvalúaCDMX* could publish its recommendations for the evaluation methodology, which would create public pressure to comply with such recommendations. This is the reason why it is not advisable for *EvalúaCDMX* to be included in the Co-ordination Committee, as noted in Chapter 1. , since it needs to be independent if it is to conduct the evaluation without bias.

Proposals for action

The Local Anti-corruption System of Mexico City has the potential for developing a coherent integrity system. To assess the goals of the system to combat corruption, a strong monitoring and evaluation framework will need to be developed. To this end, the OECD recommends that Mexico City consider taking the following actions:

Developing a strategic approach to public integrity

- To develop a targeted strategic approach to integrity and to the annual plan, the Co-ordination Committee could conduct a preliminary diagnostic of the priority areas, leveraging the data provided by National Institute for Statistics and Geography and other expert assessments of corruption.
- Taking the resources and capacity of each government entity into account, the Action Plan would need to be translated to an entity-specific integrity plan included in the entity's Annual Operational Programme.
- The Co-ordination Committee could consider developing a sub-strategy for sectors that present a specific integrity risk, as identified in the initial diagnostic.

Monitoring and evaluation

- The Executive Commission, which is responsible for developing the monitoring and evaluation framework of the Local Anti-corruption System, could invite the General Co-ordination for Administrative Modernisation to meetings on drafting the framework, co-ordinating its efforts with the general public policy monitoring framework.
- To develop the monitoring and evaluation framework, the Executive Commission could call on the technical expertise of the Executive Secretariat, to translate the Annual Plan's goals into objectives on the output and outcome level.
- To measure whether the objectives of the Annual Plan have been fulfilled, the Executive Commission, using the technical expertise of the Executive Secretariat, could develop indicators in consultation with the government entities and experts.
- The Co-ordination Committee could use the public annual report on the Anti-corruption System to report on progress that the government entities and agencies are making to encourage implementation of the Action Plan.
- Mexico City's Council for Evaluation of Social Development could be the government entity responsible for developing the evaluation methodology for the Local Anti-corruption System, and support the Co-ordination Committee in drafting binding recommendations for improvement.

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Annex 2.A. Developing a measurement methodology for concrete policy goals

**Annex Table 2.A.1. Suggested measurement methodology for the recommendation
“Implement a systematic risk management framework to strengthen the internal control
framework”**

Goals	Existence of a systematic risk- management framework	Implementation of a systematic risk- management framework to strengthen internal control framework	Integrity risks are effectively identified and corruption is countered by targeted action in these areas.	Reduction of corruption by addressing risk areas
Objectives	In each government entity, management has developed a systematic risk management framework.	In each entity, managers are aware of the relevant systematic risk management framework and make use of it in regular risk assessments.	Each government entity can clearly identify functions and decisions bearing a high integrity risk within their organisation.	Each government entity can combat internal corruption, thanks to awareness of the risk areas.
Example indicator	<ul style="list-style-type: none"> Relative number of all public entities in Mexico City’s public sector that have instituted a systematic risk- management framework Existence of a central risk- mapping, identifying the public institutions in Mexico City most at risk 	Relative number of senior managers who report being aware of and applying the risk- management framework	<ul style="list-style-type: none"> Management’s perception of the suitability of the risk assessment Number of projects that meet their objectives within the specified period Percentage of identified risks that were mitigated effectively Reduction in perceived level of corruption 	Randomised comparison of number of corruption cases in government entities with and without risk assessment
Example dataset	Internal records	<ul style="list-style-type: none"> Internal records Staff survey 	Surveys	<i>Encuesta Nacional de Calidad e Impacto Gubernamental</i> (ENCIG) survey by INEGI

Chapter 3. Building a culture of integrity in Mexico City

This chapter reviews Mexico City's policies and practices designed to promote a culture of integrity in government, and it considers the challenges surrounding the National and Local Anti-corruption Systems. In line with the principles of the OECD Recommendation of the Council on Public Integrity, it provides recommendations for action in the normative framework and organisational culture, so to ensure its implementation. The chapter assesses the required changes for promoting ethics and managing conflicts of interest in Mexico City. Furthermore, it examines whether the newly adopted human resources policies and mechanisms are effective. Proposed actions intend to mainstream the integrity policies, legislation, regulations and practices in effect. They also intend to guarantee public servants' compliance with regulations and raise awareness among all actors who interact with the various government entities. Finally, it examines the existing mechanism for ensuring citizen and stakeholder participation in monitoring integrity and accountability within the public administration.

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

3.1. Introduction

While many OECD member countries have laws, regulations, policies and practices intended to preserve or enhance integrity, trust in public service has declined significantly, despite governments' best efforts. Public servants' adherence to core values set out in these rules has been affected, since they are poorly articulated or even ignored. Mexico City, for instance, has the worst rating in terms of public perception of corruption, according to the National Survey on the Quality and Impact of Governance conducted by the INEGI in 2015, despite the anti-corruption initiatives undertaken since 2014.

Rebuilding and preserving trust is, thus a complex challenge for Mexico City. Factors militating against trust are the negative perception of its citizens; the complexity of its governmental structure; citizens' limited access to public information if they have doubts about the integrity of the government decision-making processes; the existence of various ethics rules applicable to various categories of public servants, and the lack of clear mechanisms to ensure effective penalties for breaches of the integrity framework.

The governmental structure of Mexico City includes 22 ministries, 64 deconcentrated, decentralised, parastatal and auxiliary entities and 16 autonomous territorial demarcations. Among these units and bodies, mandates, objectives and functions overlap. Public servants do not have a uniform understanding of its values, principles and practices. As various units and bodies are called on to ensure integrity in Mexico City, this is likely to become even more complex. The new Constitution of Mexico City, which came into effect in September 2018, creates additional organisations to fight corruption under the federal regulations establishing the Local Anti-corruption System (*Sistema Local Anticorrupción*, or SLAC-CDMX). The goal is to ensure accountability of public organisations and deter undesirable behaviour in the public service. Citizens, civil society organisations and media in Mexico City now have far more access to information through several websites the City has established, even though they need some improvement to be fully effective. Each category of employee, whether "structural" (*empleados de base*), free appointments (*empleados de confianza*) or those who are unionised, is subject to a variety of ethical and conflict-of-interest rules. This makes the system more complex and also makes it difficult to impose penalties in a timely fashion, undercutting citizens' assurance that the use of public funds is properly monitored and evaluated.

Mexico City's efforts to cultivate a culture of integrity in this challenging context will be assessed in light of the *OECD Recommendation of the Council on Public Integrity* (OECD, 2017^[1]). The Recommendation breaks down the key elements for building a culture of integrity in the public sector. These include: setting clear integrity standards and procedures; investing in integrity leadership; promoting a professional public sector dedicated to the public interest; communicating and raising awareness of the standards and values; ensuring an open organisational culture; and clear and transparent penalties in cases of misconduct. Moving forward from an integrity framework to an "integrity culture" requires that governments do more than approve formal laws, regulations, policies and practices. Risks of misconduct evolve and emerge very quickly, and it is necessary to integrate and mainstream the rules within the organisational structure, including human resources management, management practices and procedures, and internal control.

3.2. Building a normative framework to shift towards a values-based approach

3.2.1. Mexico City could consider streamlining its ethics rules and issuing a single, comprehensive Ethics Code to promote integrity and management of conflicts of interest.

The general legal framework setting out the principles, values and standards of conduct expected from public servants of Mexico City is laid out in three different legal instruments (Table 3.1). According to interviews with public servants, none of these ethics rules was adopted using a participatory framework. This may very well influence the effectiveness and relevance of the current framework and public servants' buy-in to these rules. They also do not include any reference to the possibility of setting specific rules in the ethical framework for sensitive areas and for positions at particular risk. Only one of the ethics rules refers vaguely to the possibility that each Mexico City public organisation will adopt its own organisational code.

Table 3.1. Mexico City's framework for ethical behaviour in the public administration

Primary legislation	
Article 47 of the Federal Law on the Responsibilities of Public Servants (<i>Ley Federal de Responsabilidades de los Servidores Públicos</i> , LFRSP) which was abrogated on 18 July 2016, as per the Official Gazette of the Federation.	Refers to 5 principles and describes in its various clauses 24 desired and undesired behaviour expected from public servants and its corresponding penalties in case of contravention.
Article 6, 7, 49-64 and 75-89 of the General Law on Administrative Responsibilities (LGRA) published in the Official Gazette of the Federation on 18 July 2016 (new law).	The law makes reference to 11 principles of the public service in Mexico, describes ten desirable and undesirable types of behaviour that are expected from public servants and signals the types of behaviour that are considered to be administrative breaches, and grave and less serious offences. Finally, the law establishes the penalties in case of infractions.
Article 6, 7, 49-64 and 75-89 of the Law on Administrative Responsibilities of Mexico City, published in Mexico City's <i>Official Gazette</i> on 1 September 2017.	The Law on Administrative Responsibilities of Mexico City harmonises the framework with the LGRA and also makes reference to 11 principles of the public service in Mexico, as well as establishing transparency as the guiding principle. Similarly, in accordance with the LGRA, it describes ten desirable and undesirable types of behaviour that are expected of public servants and signals the types of behaviour that are considered administrative infractions, both grave and less serious offences. Finally, the law establishes the penalties for infractions.
Ethics Code for Public Servants (<i>Código de Ética de los servidores públicos para el Distrito Federal</i> , CESPFD) enforced in 10 July 2014.	Lists 13 desired and undesired behaviours, with no reference to values, principles and penalties. Declares that public servants should hold themselves to the highest standards of conduct, with the goal of promoting a culture of respect and professionalism and increasing citizens' trust in public institutions. No additional guidelines stipulate how to comply with this obligation, whether this will be monitored by the government and what penalties will be imposed for non-compliance.
Charter of Duties of Public Servants (<i>Carta de Obligaciones de los Servidores Públicos</i> , or COSP, <i>Circular Note 009 de la Contraloría General del Distrito Federal</i>) enforced on 23 May 2013.	Sets out 5 principles and describes 16 desired and undesired behaviours, and the corresponding penalties and mechanisms for its enforcement. It applies only to personnel in fixed structure posts (<i>puestos de estructura</i>) and those considered as free appointments, or "of confidence" (<i>puestos de confianza</i>).

Source: Author, based on information provided by the Office of the Comptroller-General.

The current normative framework, while apparently exhaustive, does not achieve its goal, given its fragmentation and the lack of definitions and mechanisms outlining the core values for public servants in Mexico City. Neither does it define, for instance, what constitutes a conflict of interest, as is the case at the federal level (Box 3.1).

Box 3.1. Code of Ethics for public officials at the federal level

The new Code of Ethics involves both general principles and values and a set of desirable and undesirable behaviours. The general Code of Ethics includes a set of constitutional principles (legality, honesty, loyalty, impartiality, efficiency) as well as additional values (public interest, respect, respect for human rights, equality and non-discrimination, gender equality, culture and environment, integrity, co-operation, leadership, transparency, accountability) that every public servant shall respect. These principles and values overlap with those in the set of ethics rules adopted by Mexico City. Mexico City ethics rules, however, do not include the values of respect for human rights, equality and non-discrimination, gender equality and co-operation.

On the other hand, at the federal level, a set of specific desirable and undesirable conduct is articulated in the *Rules of Integrity*, which complement the new Code of Ethics and which are divided into 12 domains:

- public behaviour;
- public information;
- public contracting, licensing, permits, authorisations and concessions;
- government programmes;
- public procedures and services;
- human resources;
- administration of public property;
- evaluation processes;
- internal control;
- administrative procedures;
- permanent performance with integrity;
- co-operation with integrity.

Source: (OECD, 2017^[21]), *Integrity Review of Mexico: Taking a Stronger Stance Against Corruption*, OECD Publishing, Paris.

Discussions with public servants confirmed that these ethical rules, at different government levels, create confusion, undercutting their application in their daily work. Indeed, public servants in Mexico City consider complying with Article 47 of the LFRSP and the Charter of Duties of public officials (*Carta de Obligaciones de los servidores públicos*, or COSP) as synonymous with acting ethically. The COSP is the only set of rules requiring public servants to sign a declaration confirming that they know and affirm that they must comply with Article 47 of the LFRSP and could potentially be subject to penalties for failing to observe them. It also contains an implementation clause indicating that internal control units within the Office of the Comptroller-General will ensure that ministries, deconcentrated bodies, territorial demarcations and government entities publicise the charter among its officials and the general public, to remind public servants of their obligation to comply with the current legal framework. As far as possible, the Comptroller-General will need to harmonise the

instruments promoting ethics and public integrity, such as the COSP, with the legal framework of the new Anti-corruption System, to reflect the provisions of the LGRA and the Law on Administrative Responsibilities of Mexico City (LRA of Mexico City).

The Law on Administrative Responsibilities of Mexico City (*Ley de Responsabilidades Administrativas de la Ciudad de México*, LRA of Mexico City) is part of the secondary laws enacted to create the SLAC-CDMX. It notes that an Ethics Code will be adopted by the Office of the Comptroller, and internal control units in the case of autonomous bodies. The General Directorate of Legality of the Office of the Comptroller-General (*Dirección General de Legalidad*) will be responsible for drafting this new ethics code. It is worth noting that this future Ethics Code should be drafted using clear, plain language, to minimise confusion among public servants, and be structured in an understandable way. Preventive mechanisms are needed to ensure integrity in government decisions and to ensure that public servants internalise ethical rules. This will help them make the intrinsic choice to act in the public interest in facing real situations, rather than simply complying with the ethical framework.

3.2.2. In drafting its future Ethics Code, Mexico City should use plain language to communicate clearly the behaviour expected of all public officials.

Conceptually, Mexico City's various ethics rules fall between a Code of Conduct and a Code of Ethics. They set out general principles and values, list a set of desirable and undesirable behaviour and also describe the way they are enforced (Box 3.2).

Box 3.2. Code of conduct or code of ethics

Conceptual issues

A distinction is often made between a “code of conduct” and a “code of ethics”. This distinction usually refers to both the contents of the code and the way in which it is enforced:

- The “code of conduct” is a typical instrument of a rules-based approach to integrity management. Like that more general approach, it starts from the assumption that people are essentially self-interested and that they will only behave with integrity when this coincides with their self-interest. Hence, a preferably detailed code of conduct will describe, as specifically and unambiguously as possible, the behaviour that is expected. Such a code of conduct will also establish strict procedures to enforce the code: systematic monitoring and strict punishment of those who break the rules.
- A “code of ethics” on the other hand, is rooted in the values-based approach. It focuses on general values, rather than on specific guidelines for behaviour, putting more trust in the organisational members' capacity for independent moral reasoning. Rather than telling them what to do, the organisation provides its members with a general framework that identifies the general values and provides support, training and coaching for the application of these values in daily, real-life situations.

As for making a choice between the two types of codes, the recommendation is to situate this within the broader question of the balance between the rules-based and the values-based approaches, a balance that should also take into consideration the outer context.

Source: (OECD, 2009^[3]), Towards a Sound Integrity Framework: Instruments, Processes, Structures and Conditions for Implementation, GOV/PGC/GF(2009)1, 23 April.

By streamlining these rules into a single code of ethics, Mexico City could enhance clarity and avoid confusion among public servants. This document would reduce the number of values, offer a single definition of a conflict of interest, and define its scope and the mechanisms that will be used to enforce it. It would also identify a point of contact who might be reached for questions or any doubt about the contents or its application (OECD, 2009^[3]). Additional core integrity precepts, such as gifts and advantages, post and pre-employment rules, which are somewhat dispersed in the current framework, also need to be addressed. The provisions of this future Ethics Code should extend beyond compliance with the legislative framework and focus on preventive measures rather than penalties. This will lay the foundation for co-ordination between the General Directorate of Legality, the General Directorate of Legal Affairs and the internal control units.

When drafting the new ethics rules, common values and principles guiding the behaviour of public servants should be clearly set out. Unlike at the federal level and in the other Mexican states, Mexico City's newly enacted Constitution does not refer to detailed core values. Meanwhile, it specifies in general terms that public service activity should be based on ethics, austerity, openness, responsibility, citizen participation and accountability (Box 3.3). In addition, the SLAC of Mexico City notes that those who are part of the anti-corruption system, which includes public servants, should base their behaviour on 11 values and principles. It also includes: a definition of conflict of interest; provisions concerning the corresponding administrative offences; disclosures of private interest; procedures and penalties for administrative faults; and preventative, corrective and investigatory mechanisms to prevent or correct misconduct (i.e. audits, verifications, etc.).

Box 3.3. The Constitution of Mexico City

Mexico City enacted its Constitution on 5 February 2017, with extensive participation from many stakeholders. Specialists, members of academia, social leaders and civil society organisations actively participated by submitting their views. Among its goals are: to promote and ensure the full exercise of citizens' rights; to satisfy the government's responsibilities to citizens; to conserve and enhance the environment; to fight corruption; to reduce inequality and increase distributive justice; and to encourage social well-being. It was due to come into force on 17 September 2018.

The first title of this new Constitution contains various articles setting out the new constitutional principles. Article 3 outlines how official powers should be exercised, in the following terms:

First Title

General provisions

Article 3: Guiding principles

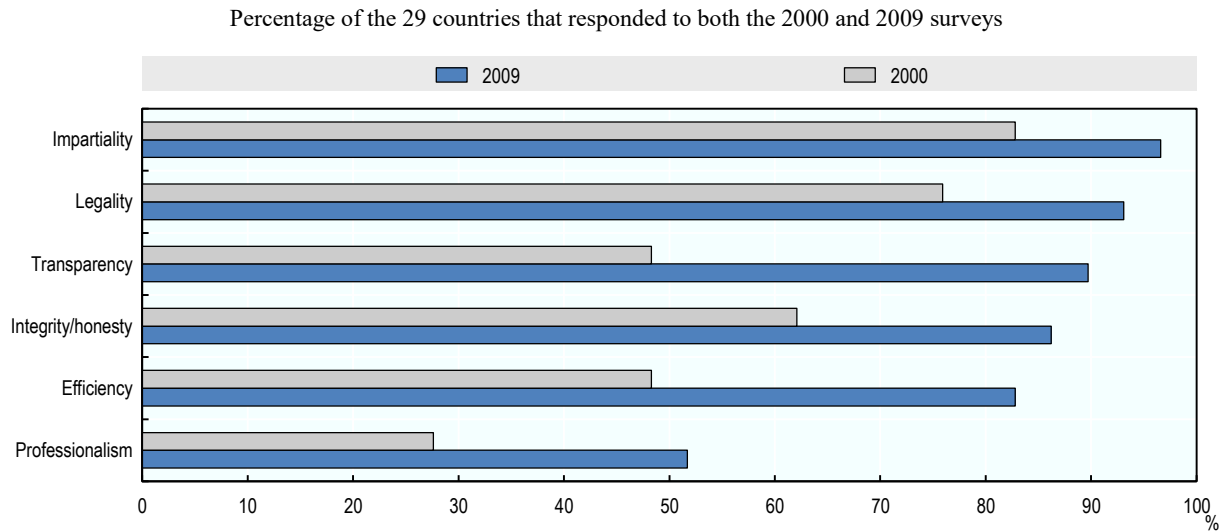
1. Human dignity is the supreme guiding principle and pillar of human rights. All individuals are entitled to freedom and equal rights. Protection of human rights is the foundation of this Constitution, and any public activity should be guided by these principles.

2. Mexico City assumes as principles:
 - a. respect for human rights, the defence of a democratic and social State, social dialogue, a culture of peace and non-violence, solidarity and sustainable economic development with a metropolitan perspective, a more equitable distribution of income, the dignity of work and wages, the eradication of poverty, respect for private property, substantive equality, non-discrimination, inclusion, accessibility, universal design, the preservation of ecological balance, protection of the environment, and the protection and preservation of Mexico City's cultural and natural heritage. Recognition of the City's ownership of its public, common and private domain property, as well as the community-owned land (*propiedad ejidal y comunal*).
 - b. stewardship in the exercise of public administration should adhere to ethics, austerity, rationality, transparency, openness, responsibility, citizen participation and accountability with control management and evaluation in terms that the law establishes;
 - c. the social function of the City, to guarantee the well-being of its citizens, in harmony with nature.
3. The exercise of power shall be organised according to principles of direct, representative and participatory democracy, social interest, subsidiarity, government proximity and the right to good governance.

The right to good governance is now considered a human right, as stipulated in Article 7 of the Constitution. Under Article 60 of the new Constitution, this right will be guaranteed through an open, honest, transparent, professional, efficient, austere, inclusive, resilient and whole-government approach that seeks to promote the public interest and that tackles corruption.

Source: Mexico City, Constitution of Mexico City, translation from Spanish version online at http://www.infodf.org.mx/documentospdf/constitucion_cdmx/Constitucion_%20Politica_CDMX.pdf, accessed on 3 April 2017 and Bill of the Constitution of Mexico City, translation from Spanish version online at <http://gaceta.diputados.gob.mx/ACCM/DOC/ProyectoConst15sep.pdf>.

Therefore, Mexico City could thus consider, in building this new ethics Code, the frequently stated core public service values adopted by OECD member countries as a precondition of setting an integrity and accountable government (Figure 3.1). Reference to these values need not be exhaustive, and may mention, for instance, the values most commonly identified by governments, such as: legality, transparency, objectivity, efficiency and accountability. The new ethics code should not, in any case, use legalistic language, as recommended in Box 3.4, in order to ensure its effective application in the day-to-day work of public servants. Furthermore, it also needs to consider the varying missions of Mexico City government entities, so that the ethics codes are designed to protect the integrity and reputation of the various entities that will fall under it (Gilman, 2005^[4]).

Figure 3.1. Core public service values

Source: (OECD, 2009^[5]), “Graph 3 Frequently stated core public service values (2000 and 2009)”, in *Government at a Glance 2009*, OECD Publishing, Paris.

Box 3.4. Drafting an Integrity Code: Guidelines for process and content

Various criteria and guidelines have been advanced for the drafting of integrity codes. What follows is a selection of recommendations, based on those guidelines and on lessons learned:

- One important preparatory step is a **letter** from the highest government levels (political and/or administrative) that explains the reasons for developing the code and stresses its importance.
- The code itself should begin with an **introduction** that addresses the aims and characteristics of the code. Below is a non-exhaustive list of aspects and questions that might be addressed:
 - Objectives: What expectations is the code addressing?
 - Scope: To whom is the code applicable?
 - Enforcement: Is the code enforceable and, if so, how?
 - Contact: Who can the staff members approach if they have questions about the contents or the application of the code?
 - Hierarchy of values and rules: Should the readers of the code attach any importance to the order in which the values/rules are presented?
 - Conflicting values: What response is expected if the values addressed in the code happen in any way to conflict with each other? Does the organisation provide support for staff members who find themselves confronted with such dilemmas (e.g. through training, coaching, counselling, etc.)?

- **Consistency:** The code is embedded in a broader integrity management framework. What are those other instruments, and how do they link with the code?

The introduction is followed by the **actual code**. The following guidelines (Maesschalck, J., and Schram, F., 2006^[6]) can increase the quality and relevance of a code, on the following model: including a limited number of core values that are each defined and then further specified in specific rules that may in turn be illustrated with examples:

- **Clear:** Make the text as clear and legible as possible. The code should be clear for all staff members who are expected to apply it.
- **Simple:** Make the text as simple as possible, but not too simple. Integrity is a complicated topic, and the code should not neglect to emphasise this. However, there is no reason to make things more complicated than necessary.
- **Concrete:** Avoid empty generalisations. Vague statements are not always avoidable, particularly in (values-based) “codes of ethics”. Nevertheless, it is important to try and make the values as concrete as possible, e.g. by specifying them in specific rules and guidelines or by illustrating them with concrete examples.
- **Structured:** Make sure that the code is constructed logically, and is centred on a number of core values that do not overlap. If the values are thus truly mutually exclusive, it will become easier to identify the tensions between them. These tensions are typical of ethical dilemmas, and a code with clearly delineated values becomes a useful tool for dealing with ethical dilemmas or for exploring ethical dilemmas in training sessions.
- **Consistent:** Use concepts in a parsimonious and consistent way. It is advisable not to use different terms for the same concept within the same code (or in different documents within the same organisation). Likewise, avoid using terms that lend themselves to different interpretations. Decide on the term that is most appropriate and use it consistently throughout the different documents. This will increase the chance that all staff members use the same language, thus allowing the code and related documents to become truly useful tools in training and daily conversation.
- **Linked:** Include sufficient cross-references in the code to other documents, guidelines and codes where staff members can find further details about specific themes.
- **Relevant:** The code should move beyond the obvious and particularly focus on those issues where guidance is needed. The chances for this will increase if risk analysis and dilemma analysis are used in preparation of the code.

Source: (OECD, 2009^[3]), Towards a Sound Integrity Framework: Instruments, Processes, Structures and Conditions for Implementation, GOV/PGC/GF(2009)1, 23 April.

To ensure clarity, Mexico City could consider removing detailed integrity rules of this new ethics code and, based on good international practices such as Australia’s, develop a manual or guideline to provide guidance on solving challenging ethical dilemmas that

may arise in the exercise of public servants' functions. At present, there are no effective guidelines on how to resolve ethical dilemmas (Box 3.5). The proposed manual could contain provisions with clear, concrete, simple and consistent criteria to help public servants in Mexico City resolve ethical dilemmas that may arise in their daily work.

Box 3.5. Guiding public officials in facing ethical dilemmas in Australia

The Australian government has developed strategies to enhance ethics and accountability in the Australian Public Service (APS), such as the Lobbyist Code of Conduct, and the register of “third parties”, the Ministerial Adviser’s Code and the work on whistle-blowing and freedom of information.

To support its ethics and integrity regime, the Australian Public Service Commission has enhanced its guidance on APS Values and Code of Conduct issues. This includes integrating ethics training into learning and development activities at all levels.

To help public servants facing ethical dilemmas, the Australian Public Service Commission has developed a decision-making model that follows the acronym REFLECT:

1. Recognise a potential issue or problem

Public officials should ask themselves:

- Do I have a gut feeling that something is not right or that this is a risky situation?
- Is this a right versus right, or a right versus wrong issue?
- Recognise the situation as one that may involve tensions between APS Values or the APS and their personal values.

2. Find relevant information

- What was the trigger and what are the circumstances?
- Identify the relevant legislation, policies and guidance (APS-wide and agency specific).
- Identify the rights and responsibilities of relevant stakeholders.
- Identify any precedents.

3. Linger at the “fork in the road”

- Talk it through; use intuition (emotional intelligence and rational processes) and analysis; listen and reflect with supervisors, respected colleagues, peers, or support services; and remember privacy.

4. Evaluate the options

- Discard unrealistic options.
- Apply the accountability test: would the decision stand up to public scrutiny/independent review?

- Be prepared to explain the reasons for your decision.

5. Come to a decision

- Come to a decision, act on it and make a record if necessary.

6. Take time to reflect

- How did it turn out for all concerned?
- Learn from your decision.
- If you had to do it all over again what would you do differently?

Source: Office of the Merit Protection Commissioner (2009), “Ethical decision making”, <http://www.apsc.gov.au/publications-and-media/current-publications/ethical-decision-making>.

An additional aspect that Mexico City could consider in streamlining the ethics framework is to define a strategy to ensure alignment of the organisational codes within its public administration and make sure they are easily accessible for consultation, known by all public servants and duly enforced. To ensure a whole-government approach and strengthen co-ordination, Mexico City needs to co-ordinate with the territorial demarcations to ensure that they help ensure the coherence of the new ethical and conflict of interest framework implementing the Local Anti-corruption System. As a result, Mexico City will ensure that all public servants under its jurisdiction share the same values and are aware of the potential penalties in case of breaches.

This new proposed Ethics Code needs to apply to all public servants and an employee in Mexico City regardless of their contractual status, which is not at present the case. All should receive a same level of basic guidance and training, while senior management and officials in at risk-positions should receive additional, tailored guidance. Mexico City requires that even the temporary staff be made aware of the new Ethics Code.

Finally, when drafting these rules, Mexico City needs to consult its public servants to help build a common understanding throughout the public administration and to ensure their buy-in. The new Ethics Code should be accompanied with a set of interpretative guidelines, checklists and procedures to ensure its application in a consistent and coherent manner, avoiding bias and conflict of interest situations.

3.2.3. Mexico City could also streamline its conflict of interest rules.

To manage conflict of interest in a workplace, conflict of interest rules should specify clearly what is expected of public servants and be accompanied by procedures, guidelines, checklists or other tools to assist them in determining whether a conflict of interest exist and, if so, how to proceed. These rules are usually applicable following descriptive and prescriptive approaches.

As noted in the case of the existing ethics rules, Mexico City’s conflict of interest framework is made up of the legal instruments, policies and guidelines laid out in Table 3.2, which vary widely in content and quality. Moreover, they cannot be uniformly applied, since the rules apply to fixed structure posts (*puestos de estructura*) and to personnel of free appointment (*de confianza*) but not to unionised employees.

Table 3.2. The existing conflict of interest rules in Mexico City

Conflict of interest normative framework
Article 47 of the Federal Law on the Responsibilities of Public Servants (LFRSP), which was abrogated on 18 July 2016 and applied until 18 July 2017:
Article 3, clause VI: 31, 37 last paragraph: 47, 58 and 60 of the General Law on Administrative Responsibilities published in the Official Gazette of the Federation on 18 July 2016, and entered into force on 19 July 2017.
Similar and aligned to the LGRA, articles 3, clause VII:31:37 last paragraph: 47, 58 and 60 of the Law on Administrative Responsibilities of Mexico City published in Mexico City's Official Gazette on 1 September 2017.
Guidelines for the presentation of a declaration of interest and a declaration of non-conflict of interest by public servants of the Federal District (Distrito Federal) public administration and their counterparts (Guidelines of July 2015)
Agreement establishing policies for transparent accountability to avoid conflict of interest and increase in unjustified equity (Guidelines of March 2016)
Guidelines for the declaration and dissemination of patrimonial, fiscal and interest information by public servants of the public administration of Mexico City and their counterparts (Guidelines of April 2016).

Source: Author, based on information provided by the Office of the Comptroller-General.

Several clauses of Article 47 of the LFRSP, which outlined the responsibilities of public servants (abrogated in the *Official Gazette* 18 July 2016 and valid until 18 July 2017) describe situations under which a conflict of interest may arise and provides, as a reference, a procedure for managing conflicts of interest. This consists of notifying managers of this situation when it arises. Likewise, the new LGRA, issued on 18 July 2016, which came into force on 19 July 2017, defines conflict of interest as “the possible impairment of the impartial and objective performance of the duties of Public Servants due to personal interests, family or business relationship”. It goes on to describe situations under which a conflict of interest could arise and establishes a procedure for managing a conflict of interest. It stipulates that a public servant who becomes aware that he or she is in a conflict of interest or in a legal impediment must inform his or her immediate supervisor, or the government body that determines the applicable provisions. It states that such an employee should request that he or she be excused from participating in any way in the handling, processing or resolution of the matters that pertain to the conflict of interest. The immediate supervisor must then determine and inform the public servant, no later than 48 hours before the time limit set for dealing with the matter in question, of any situation in which it is not possible to refrain from intervening in the matters. It also states that written instructions must be drawn up for the impartial and objective handling, processing or resolution of such matters.

The Guidelines of May 2015 describe when a conflict of interest may arise, makes no reference to mechanisms for preventing this situation from arising. Furthermore, its rules only apply to public procurement officials. The other Guidelines do not include a definition of what constitutes a conflict of interest. They refer to the mechanisms for disclosing financial and non-financial interests, and to the Digital Platform on which these declarations should be made public, but they do not specify a mechanism to prevent them from arising or for mitigating their impact on public decision-making processes.

From the review and discussions with public servants of Mexico City, it seems that as currently written and applied, these guidelines are not helping to create common understanding on how to effectively manage conflicts of interest or preventing such situations from arising. Thus, Mexico City could consider streamlining and clarifying the rules to ensure that public servants will understand and recognise that managing conflicts of interest cannot be limited to filling out a disclosure form of their financial and non-financial interests and punishing any delay in submitting them. Public servants in Mexico City need to understand that conflicts of interest may arise when they are exercising their duties and functions and that they need to be effectively managed or prevented. Mexico City needs to ensure that continuous training

and awareness-raising activities be conducted. Meanwhile, public servants should be encouraged to identify potential conflicts of interest and as soon as they become aware of any, to report them to their managers, superiors or to the unit with the authority to provide guidance for reaching a solution together (see Box 3.6).

3.2.4. Mexico City could consider updating the existing organisational code.

Five government entities in Mexico City have adopted their own Ethics Code: two ministries, two decentralised bodies and one entity (Table 3.3). Unlike the general current ethics rules applicable to public servants, two of these organisational codes contain a definition of what constitutes a conflict of interest. Not all these government entities and organisations align their missions with the values set out in the existing ethics framework systematically, and some were not approved in a participatory process. Moreover, public servants working in the internal control units of the Office of the Comptroller are not aware of this disbalance between mission and values, even though they are responsible for enforcement of the general ethics rules.

Table 3.3. Organisational ethics codes in Mexico City

Ethics Code and Integrity Rules of Mexico City Organisations
Ethics Code of the Ministry of Education (includes 19 principles)
Ethics Code of the Ministry of Urban Development and Housing (sets out 3 ethical principles, 4 obligations, contains penalties and has a definition of what constitutes a conflict of interest)
Ethics Code of the Social Advocate of Mexico City (sets out 11 principles and 7 detailed obligations required of public servants)
Ethics Code of the Superior Tribunal of Justice of the Judiciary Council (sets out 22 principles to guide its public servants and includes a definition of conflict of interest)
Ethics Code of the Water System of Mexico City (sets out 5 principles, makes detailed reference to the declarations of interest and of no conflict of interest)

Source: Author, based on information provided by the Office of the Comptroller-General.

While having separate Ethics Code can constitute a core element of a governmental strategy, to target organisations with functions that are considered particularly sensitive to risk, maintaining consistency among these Codes can be a challenge, since they could undermine the uniformity of expected standards of conduct to integrity risks (OECD, 2012^[7]).

In Mexico City, the government entities that adopted their own codes have not been guided by an overarching framework. Their content, scope and quality are very different. A review of these organisational ethics codes confirms that there is no coherence in the values and ethical duties required of public servants. This fragmentation and the lack of common general principles do not allow for a uniform culture of integrity in public sector entities. Mexico City could thus consider, while updating these organisational codes, adopting specific guidelines like those used at the federal level. This would ensure, among other things, that: these codes use plain language; identify the risks of integrity breaches in the context of the organisation's activities; provide guidance to public officials working on these organisations when ethical dilemmas or conflict of interest issues arise; and also, are aligned with the new integrity framework. Mexico City should do more than simply provide definitions, setting up ways to identify conflict situations and offer instruments to guide public servants in resolving ethical issues and manage conflicts of interest as they arise.

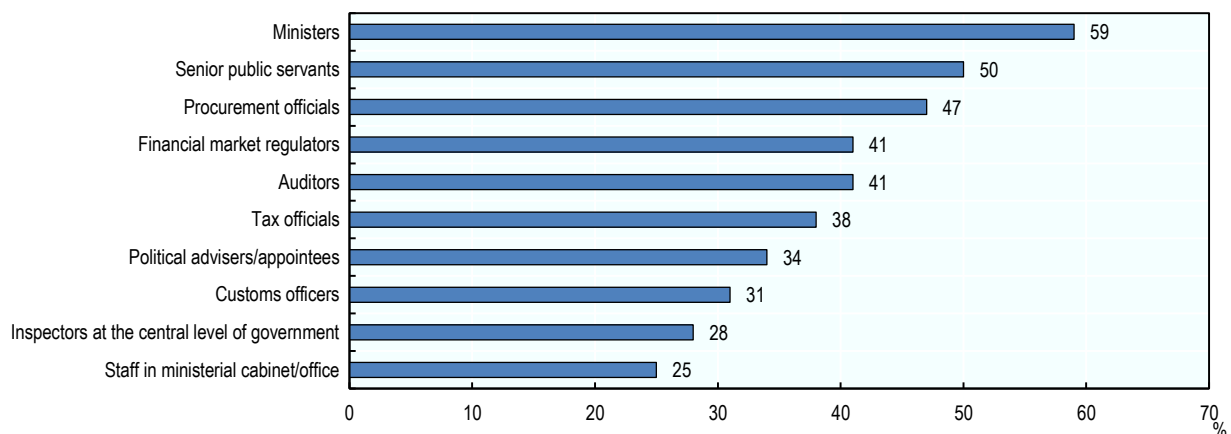
In adopting these new organisational codes, Mexico City should ensure a participatory process, to build consensus and ownership of the rules, and provide relevant and clear guidance to public servants. This participatory process could reduce the risk that the organisational codes become a “check-the-box” exercise, as has been observed in many public entities all over the world in the past. Careful analysis of each organisation’s particular susceptibility to corruption potential ethical dilemmas can help promote discussions amongst public servants and build consensus on shared values and principles.

3.2.5. Mexico City could consider developing special standards for such risk areas as law enforcement, political advisers and procurement officials

Ultimately, public servants are responsible for identifying conflicts of interest, but OECD countries have identified areas that are most at risk and have attempted to provide guidance to their public servants on conflicts of interest. Most OECD countries have adopted special standards for the specific activities and positions described in Figure 3.2. Countries such as Canada and United States have also identified activities and official positions that are most vulnerable to breaches of integrity and have adopted rules and guidelines to resolve ethical issues and manage conflicts of interest. In Mexico, the presidential Executive Order of 3 February 2015 led to the creation of a code of conduct for all public servants and a single protocol governing interactions between procurement officials and suppliers.

In Mexico City, no special standards are in force for public servants working in areas susceptible to corruption. The procurement legislative framework, however, does contain provisions on disclosure of interests, recusal from participating in the procurement process if a conflict of interest exists, and so on. There are also no specific rules for other risk areas such as the Auxiliary Police Service of Mexico City (*Policía Auxiliar del Distrito Federal*) and in the Police Banking Service of Mexico City (*Policía Bancaria e Industrial de la Ciudad de México*), two deconcentrated government entities where the risk of corruption has been identified as extremely high (Casar, 2016^[8]).

Figure 3.2. Development of specific conflict-of-interest policy/rules for particular categories of public officials in OECD countries



Source: (OECD, 2014^[9]).

The LRA of Mexico City does not contain specific rules for public procurement officials or other officials occupying positions that are particularly at risk for

corruption. It does create a system that will be set up in the Digital Platform identifying public servants participating in public procurement process and the government entities where they work (Article 43 of the LRA of Mexico City). This initiative will be helpful in ensuring transparency throughout public procurement process, but it cannot prevent and resolve ethics and conflict of interest issues that may arise in the area most at risk.

In drafting the new integrity framework, Mexico City could consider identifying the most risky areas and then providing a manual on ethics and conflicts of interest intended for officials participating in public procurement activities or other specified government activities. This would help them to spot these situations and make the appropriate decisions. This risk-based guidance could complement the organisational codes already noted. In the long term, rules could also be set for those working in the law enforcement sector.

3.2.6. Mexico City could set out clear instructions describing the penalties for failing to abide by the integrity rules.

In stipulating desirable behaviour, public servants need to be informed of the consequences of violation of ethical and conflict of interest rules and, where applicable, that recovery mechanisms for economic losses and damages may be applied. The rules of conduct and ethical values need to be clearly drafted and applied equitably, explaining the links between them and the legal instrument where these breaches are described. If applied fairly and in a timely fashion, penalties can have a positive impact on credibility of the integrity rules and framework. They will send a signal to public servants and citizens that impunity will not prevail, and that the government is serious about upholding the public interests and can help to instil integrity values in individuals and organisations.

OECD research suggests that organisations should react to any undesirable behaviour, no matter how small. Any tolerance of infractions can erode integrity in the organisation, or encourage cynicism and frustration among those who do respect the rules (OECD, 2017_[10]). The penalties most often used for breaches of conflict-of-interest policies in OECD countries are disciplinary and criminal prosecution, along with the cancellation of relevant decisions and contracts (Box 3.6).

Box 3.6. Setting proportional penalties for breaching conflict-of-interest policies

The nature of the position is taken into consideration when countries determine appropriate personal consequences for breaching the conflict-of-interest policy. The following list of personal consequences indicates the variety of severe penalties applied to different categories of officials in Portugal:

- loss of mandate for political and senior public office holders, advisers or technical consultants
- immediate cessation of office and return of all sums that have been received, for ministerial advisers
- three-year suspension of senior political duties and senior public duties for senior civil servants
- loss of office in the case of managerial staff
- fines and inactivity or suspension for civil servants and contractual staff.

Source: (OECD, 2004^[11]), *Managing a Conflict of Interest in the Public Service: OECD Guidelines and countries experiences*, OECD Publishing, Paris.

In Mexico City's integrity framework (applicable before 1 September 2017) the penalties imposed in cases of ethics or conflict of interest breaches were not clearly understood. Public servants were not always aware that their misbehaviour would have consequences not only for them but also for their organisations, and that penalties could be imposed accordingly. Penalties for integrity breaches were also not expressly and clearly set out in the various legal instruments, policies and guidelines. These refer in some cases to Article 47 of the LFRSP, outlining the responsibilities of civil servants (now abrogated). This provision and the other regulations do not address such integrity breaches as those associated with: abuse of office; giving preferential treatment; exercise of prohibited activities; and post-employment cases arising from increased mobility between the public and private sector (the "revolving door" phenomenon). In interviews conducted in research for this review, officials' responses when asked about penalties imposed in case of integrity breaches systematically made reference to provisions of the LFRSP (Articles 47 and 50 abrogated), not making clear reference to the appropriate penalty that is applied to contravening a specific ethics rule. Their responses were based on a legalistic approach that focused on compliance with the provisions set out in the integrity framework rather than in properly identifying and resolving an ethical dilemma or a conflict of interest. This suggested that Mexico City's integrity strategy has focused on enforcement more than on prevention. This can potentially dilute ethical behaviour within organisations, because it appears to have less to do with personal responsibility than a detailed knowledge of the law (Gilman, 2005^[4]).

The new legal framework corresponding to the General Law of Responsibilities of Public Servants (LGRA) and the Law of Administrative Responsibilities of Mexico City, clearly establishes the acts in which public servants may be committing acts of corruption by omission or action, by regulating grave and less serious administrative misconduct by public servants. The following acts are also included: bribery, embezzlement, diversion of resources, misuse of information, abuse of functions, acting in a conflict-of-interest situation, improper hiring, illicit enrichment or concealment of a conflict of interest,

influence peddling, cover-up, contempt of court, obstruction of justice and also differentiated penalties, depending on whether a grave or less serious administrative offence was involved.

As detailed in Table 3.4, a breach of ethics principles while fulfilling public duties and functions: failing to identify and resolve a conflict of interest when it arises; accepting or maintaining a prohibited private interest; not reporting a known conflict of interest of a colleague; failing to resolve or manage conflicts of interest; not providing or providing false information on assets and private interests, are all considered violations to which administrative penalties should apply. However, there is no clarity on what the applicable penalty is. Indeed, when any of these situations occurs, public officials should abstain from intervening or participating in any way in the procedures or related acts, and inform their immediate superior, the internal control unit or the Directorate of Internal Control Units in Government Entities (*Dirección General de Contralorías Internas en Entidades*).

Table 3.4. Violations of conflict of interest and ethics rules subject to penalties under the current Mexico City integrity framework

Violations	Legal provisions	Administrative penalty	Criminal penalty	Reparatory penalty
Breach of ethical principles while fulfilling their duties and functions	Article III of the Charter of Rights.	X		
	No penalty under the Ethics Code for Public Servants.	X		
	Article 47, first paragraph and 53 of the LFRSP (abolished) Articles 75-89 LGRA and LRA of Mexico City	X		X
In case of actions or omissions concerning management of public funds, securities and economic resources property of the City in the context of budget and planning, which causes damages to the Ministry of Finance and the assets of a government entity	Article III of the Charter of Rights	X	Only if classified as such by the Criminal Code	X
	Articles 75-89 of the LRA of Mexico City	X		X
Not resolving a conflict of interest when it arises	Article II (6) of the Charter of Duties	X	Only if classified as such by the Criminal Code	
	Articles 47, clause XX and 53 of the LFRSP (abolished)	X		
	Article 7 of Guidelines of May 2015	X		
Not recusing themselves when a conflict of interest exists	Articles 47, clause XIII and 53 of the LFRSP (abolished) Articles 75-89 of the LRA of Mexico City	X		

Failure to disclose a known conflict of interest involving a colleague	Articles 47, clause XIV and 53 of the LFRSP (abolished)	X	
	Articles 3 and 6 of the Guideline of May 2015	X	
	Article 6 of Guidelines July 2015 Article 75-89 of the LRA of Mexico City	X	
Not resolving or managing a conflict of interest of a superior	Articles 47, clause XX and 53 of the LFRSP (abolished)	X	
Not providing information on assets and private interests	Article 47 fraction XVIII of the LFRSP (abolished)	X	
	Article 6 (a) vii Guidelines of July 2015	X	
	Article 7 Guidelines May 2015	X	
	Article 75-89 of the LRA of Mexico City	X	
Not providing information on assets and private interests in a timely manner	Art. 7 Guidelines of May 2015	X	
	Art. 7 Guidelines of April 2016	X	
	Art 75-89 of the LRA of Mexico City	X	
Providing false assets and private interest information	Article 7 Guidelines of May 2015	X	
	Article 7 Guidelines of April 2016	X	
	Article 75-89 of the LRA of Mexico City	X	
Other situations (i.e. not disclosing gifts, accepting an offer of employment in breach of provisions set out in the LRSP)	Articles 88 and 89 of the LFRSP. Acceptance of gifts over of the threshold should be reported to the Directorate of Legality. Article 75-89 of the LRA of Mexico City	X	If value of a gift is over the threshold stipulated in Article 88 of the LRSP and has been received from persons enumerated in Article 87, and the public official cannot during the investigation justify the increase of his or her assets.
		X	

Source: Author, based on information provided by the Office of the Comptroller-General.

Interviews with public servants also indicated that Mexico City's integrity policy focuses on managing ethics and conflicts of interest by imposing penalties, rather than preventing their occurrence or resolving them as they arise. Managing a conflict of interest thus basically consists of verifying whether the form used to disclose assets and interests has been submitted, using a "checklist approach" and punishing the public servant for non-compliance. As currently implemented, integrity policy within public sector organisations is not oriented toward preventing public officials, as far as reasonably possible, from being placed in a conflict of interest or ethical dilemma. The LRA of Mexico City makes

a distinction between grave and less serious offences (as detailed in Box 3.7). The statute of limitations for less serious offences under this law is three years from the day after infractions have occurred or ceased, and up to seven years in the case of serious offences. This is now aligned with the National Anti-corruption System. This feature is a notable effort to enhance the effectiveness of the penalty function, letting public servants know the conduct that is expected of them and that will need to be communicated to all public entities to provide for its effective enforcement.

Box 3.7. Serious and less serious offences under the Law on Administrative Responsibility of Mexico City and Mexico's General Law on Administrative Responsibilities

At the federal level, Articles 49 and 50 of the General Law on Administrative Responsibilities (LGRA), which took effect in July 2017, define less serious offences. Serious offences are defined by Articles 52 to 64 of the law. In Articles 49 and 50, the LRA of Mexico City defines less serious offences as follows:

- failure to comply with the duties, attributions and commissions entrusted to them, observing in their performance discipline and respect, both for other public servants and for the private individuals with whom they deal, in the terms established in the Code of Ethics;
- omitting to report behaviour that they witness in the exercise of their duties and functions that could constitute an administrative offence;
- failure to comply with the instructions of their superiors, providing these are in accordance with the normative provisions governing them. In case of receiving instruction or assignment contrary to these provisions, public servants should report this under the terms of Article 93 of the Law;
- disclose in an extemporaneous manner the asset or interest declarations. It will cease to be considered a less serious offence if the presentation of the corresponding declaration is made after the disciplinary administrative procedure has begun.
- failure to register, integrate, store and care for documentation and information that, due to their charge or commission, falls to their responsibility; or allow in an intentional or criminal manner its use, disclosure, abduction, destruction, misappropriation or misuse;
- failure to respond in a timely manner to requests for documents, information or implementation of precautionary measures requested by any of the Human Rights Commissions;
- failure to respect in a timely manner and in the form required requests for collaboration, information or documentation made by judicial or administrative authorities, provided that it is in the legitimate exercise of their powers and there is no legal impediment to it, which must be justified;
- failure to respond in a timely manner to requests for collaboration, information or documentation made by the internal control bodies or the Court in connection with procedures for investigating complaints or to complaints or to administrative disciplinary procedures;

- failure to execute set penalties of reprimand or temporary suspension of employment of public servants punished by the internal control body or by the Court. It will also be punishable to fail to execute the temporary suspension of employment referred to in this provision when it has been imposed as a precautionary measure;
- failure to verify before the competent authority that the legal status of “not disabled” has been modified between the date of issue of a certificate of non-disqualification and the date of hiring of a public official, provided that more than ten business days have elapsed between the issuance and hiring date;
- use of resources assigned to them for the performance of their employment, position or commission, the powers assigned to them or information reserved for their access, for purposes other than those for which they were assigned;
- requesting, on the basis of the position or commission that they hold, preferential treatment or any kind of privilege or undue benefit to which they are not entitled, whether in the private or public sphere.
- failure to ensure, prior to the conclusion of contracts for acquisition, lease or sale of all types of goods, provision of services of any nature or the contracting of public works or services related thereto, that the individual confirms under oath that he or she does not hold a job, a position or commission in the public service or, if applicable, that despite the performance of the contract, a conflict of interest is not updated with the corresponding contract. The respective statements must be in writing and made known to the internal control body prior to the conclusion of the act in question. In the event that the contractor is a legal entity, such statements must be filed with respect to partners or shareholders who exercise control.

For the purposes of this Law, it is understood that a partner or shareholder exercises control over a company when they are managers or form part of the board of directors, or, jointly or separately, directly or indirectly, retain ownership of rights that allow voting to be exercised over more than 50 percent of the capital, have decision-making power in their assemblies, are in a position to appoint the majority of the members of its administrative body or, by any other means, have the power to make the fundamental decisions of said legal person.

- Acts or omissions that imply a breach of any legal provision related to the public service or function, whose typical description is not provided for in any of the previous sections or which constitutes a serious administrative fault.
- Damages and losses committed in a criminal or negligent manner and without falling in any of the serious administrative offences indicated in the following chapter, that are caused by a public official to the Public Treasury or to the asset of a public entity, would be considered less serious offences.
- Public entities or private individuals who, under the terms of this article, have received public resources without being entitled to them, must return them to the Public Treasury or to the public entity concerned within a period not exceeding 90 days of the corresponding notification of the Superior Audit or the authority making the determination;

- In the event that the monies referred to in the previous paragraph are not reimbursed, these will be considered tax credits, and the Secretary of Finance must collect the amounts in terms of the applicable legal provisions;
- The Authority may refrain from imposing the corresponding penalty under Article 75 of this Law, when the damage or prejudice to the Public Treasury does not exceed 2 000 times the daily value of the Unit of Measure and Update, and the damage has been compensated or recovered.

In contrast to the federal provisions, the above-mentioned articles consider as less serious offences other kinds of misconduct, such as: not verifying the qualification of a public official before hiring him or her; the misuse of resources provided to execute an official's functions and duties; giving preferential treatment; and not verifying the status of private persons or legal persons participating in public procurement processes. Such behaviour is considered a serious offence under federal law.

Serious offences are described in Articles 51 to 64, which cover the behaviour described in Section 52 to 64 of the LGRA but with certain differences. For instance, in the case of a conflict of interest, Mexico City's LRA punishes the lack of timely and truthful attention to measures of prevention of conflict of interest, such as the declaration of interests, recusals and declarations of no conflict of interest; hidden enrichment or hiding a conflict of interest as a result of providing false information in declarations of their assets and interests; and declarations intended to conceal an increase in assets or a conflict of interest; etc.

Source: Bill of the Law on Administrative Responsibilities of Mexico City and the General Law of Administrative Responsibilities, cited in (OECD, 2017^[21]), *OECD Integrity Review of Mexico: Taking a Stronger Stance Against Corruption*, OECD Public Governance Reviews, OECD Publishing, Paris.

They also need to be communicated to all public servants, citizens and other stakeholders. This information needs to show that the integrity system calls for more than simple compliance with the rules, and to prioritise the primacy of the public interest by identifying areas of risk for the integrity of public servants and government entities.

Penalties are tracked by the government (Box 3.8) and published in various locations (reports of activities of the Comptroller, quarterly bulletins and social networks such as Twitter and Facebook). The format used to disseminate this information, however, could be improved, since it is not regularly updated. In addition, no details are provided to monitor the effectiveness of enforcement of the integrity system. Some improvements are also required to identify clearly the risk areas where breaches of integrity rules are recurrent, not only to punish the public servants responsible but also to restore the integrity of the government entity, which could be compromised by the systematic behaviour of its employees.

Box 3.8. Penalties imposed by the Office of the Comptroller-General during the current administration (from 5 December 2012 to 31 January 2017)

According to data provided by the Office of the Comptroller, penalties were imposed on 9 083 public servants during the current administration, and a total of 9 183 penalties, from warnings to disqualification, were imposed, as detailed in the table below:

Warnings	Reprimands	Suspensions	Disqualifications	Dismissal	Dismissal and disqualification	Total
446	3 032	4 156	1 162	145	242	9 183

In its most recent report, for 2016-2017, the Office of the Comptroller reported that a total of 2 599 investigations for administrative fault were launched during this period. This volume of investigations was added to 1 000 procedures already in place. A total of 1 792 procedures were resolved, resulting in 2 001 penalties imposed on the same number of public servants. Additionally, 156 economic penalties were imposed for a total of close to MNX 3 070 million. Penalties imposed ranged from warnings to dismissal and disqualification, as detailed below:

Warnings	Reprimands	Suspensions	Disqualifications	Dismissal	Dismissal and disqualification	Total
1 023	67	668	181	2	60	2 001

Data on penalties imposed on public servants are not available online in the format used to disseminate penalties and are instead published in online bulletins. While this information shows Mexico City's commitment to zero tolerance of corruption, it only provides reference on the type of penalty imposed, without specifying the position of public servants, the ministry, territorial demarcation, deconcentrated or parastatal entities where they work and the type of administrative fault. This information could be useful to determine whether preventive measures could have been taken to avoid future recurrences of such behaviour. For preventative purposes, the information could also make reference to cases that constitute conflicts of interest, those of apparent conflicts of interest (not actual cases of conflict of interest but damaging enough to undermine public confidence), and those resolved by adopting a particular mechanism, such as holding corporate shares in a public or private corporation having dealings with the government, resignation of a position of office within a corporation or a non-profit organisation, etc.

The Office of the Comptroller-General of Mexico City mentioned that since the implementation of the assets, interests and tax declarations, it has analysed the files designated as having an alleged administrative fault for not submitting these declarations within the deadlines required by the current guidelines. However, no public information exists on the number of files under investigation and on integration to determine the appropriate penalties, which could also be helpful to ensure compliance.

No data exists on the number of files currently under investigation, even though a potential breach in the integrity system exists. When it is expected to be resolved is also not available online. These situations may suggest to public servants that it is likely the declarations will never be checked. This risks turning the exercise into a purely formal undertaking, with negative consequences.

Source: Author, based on the information provided by the Office of the Comptroller-General.

The lack of data publicly available on penalties imposed on a given class of position and the nature of violations related to these penalties suggest that potential issues could arise even before files are transferred to internal control units or the Tribunal. It is thus important that Mexico City ensure that, when implementing the enforcement mechanisms, the timeframes set out in the Law of Administrative Responsibilities of Public Servants (LRASP) of Mexico City are followed and penalties imposed are communicated widely both within and outside government entities.

Previous recommendations stressed the importance of establishing an Ethics Code and updating organisational codes of public entities. The overall legitimacy and effectiveness of the future Mexico City integrity framework will also depend on ensuring that enforcement mechanisms provide “appropriate and timely” responses to all suspected violations of public integrity standards (Gilman, 2005^[4]). In particular, Mexico City will need to ensure that the disciplinary system is coherent and consistent with the integrity framework. Thus, it should ensure that any duty or obligation mentioned in the disciplinary system is properly linked to the Ethics Code, and provide for the enforcement of appropriate penalties, in line with the principles and conditions governing disciplinary action in Mexico City (e.g. due process, legality and proportionality).

Because of the central role that the Co-ordination Committee will have in the Local Anti-corruption System in developing integrity policies, instruments and forms within Mexico City’s public administration, the directorates of the Office of the Comptroller in charge of enforcing the integrity rules and the Directorate of Legality, which will draft the Ethics Code, should co-ordinate their work to ensure that it be properly harmonised with the accountability mechanisms and that public servants are aware of the responsibilities of their roles. Investigations set out in the bill for the LRASP of Mexico City should be held to the highest standards and be applied consistently with the new law, to avoid causing confusion among public servants. In the new integrity system, three different government entities will be charged with conducting investigations: the Office of the Comptroller-General, the internal control units (for less serious offences) and the Superior Auditor of Mexico City (for serious offences), all granted considerable discretion and not subject to a time limit to complete their investigations. Three others (the Office of the Comptroller, the internal control units and the Tribunal for Administrative Justice) will set the penalties, which could affect the consistency of the enforcement function.

Finally, the Administrative Office of the Government of Mexico City (*Oficialía Mayor*), charged with the management and development of personnel within the whole administration and the public service, should co-ordinate with the Office of the Comptroller to make sure all public servants are aware of the integrity policies and the associated penalties for failing to comply with its provisions in a timely manner.

3.3. Building a strong institutional framework for public ethics and conflicts of interest

3.3.1. To ensure coherence in developing conflict of interest and ethics policies, Mexico City should designate a unit in the Office of the Comptroller.

Most OECD countries have delegated the development and maintenance of conflict of interest and ethics policies to a central body responsible for this matter across the government (OECD, 2014^[9]). This central function may be a parliamentary committee, central agency or specialised, designated body to promote public ethics across the government. Centralising this function in one body helps to create a common understanding of values, principles and practices among public servants, to provide clear guidance, ensure coherence in the development and implementation of the integrity strategy and avoid overlaps or even contradictions when dealing with integrity issues. In Mexico City, these functions currently involve participation of seven Directorates within the Office of the Comptroller-General, whose functions sometimes overlap, as seen in Table 3.5.

Table 3.5. Government entities within the Office of the Comptroller-General in charge of developing, maintaining and enforcing conflict-of-interest and ethics policies

Directorates	Functions	Legal framework
Directorate of Legal Affairs and Responsibilities – Office of the Comptroller-General of Mexico City	Provides opinions on rules and codes, resolves integrity issues in case of doubt and prevents and fights corruption by imposing penalties in cases of contravention of the normative framework. Public servants may submit requests in writing, by phone, electronic means or by asking in person for advice. Eighteen public servants are responsible for this function.	Article 34 of the Organic Law of the Public Administration of Mexico City (<i>Ley Orgánica de la Administración Pública del Distrito Federal</i>) and Articles 28, 102 to 113, 113-A, 113 Ter, 113 Ters-1 to 4 of the Interior Regulation of the Public Administration of Mexico City (<i>Reglamento Interior de la Administración Pública del Distrito Federal</i>)
Directorate of Legality – Office of the Comptroller-General of Mexico City	Interprets the normative framework in force and provides advice to public servants. Public servants may address their doubts or requests for advice in case of lack of clarity in any of the current legal framework or to resolve integrity issues in their workplace. Provides support especially to public procurement activities and supervises public servants' activities. Public servants may submit their request in writing, by phone, electronic means or by asking guidance and advice in person. Sixty public servants work in this directorate. Eight of these 60 public servants provide advice. Requests can be submitted by various means.	Article 34 of the Organic Law of the Public Administration of Mexico City (<i>Ley Orgánica de la Administración Pública del Distrito Federal</i>) and Articles 28, 102 to 113, 113-A, 113 Ter, 113 Ters-1 to 4 of the Interior Regulation of the Public Administration of Mexico City (<i>Reglamento Interior de la Administración Pública del Distrito Federal</i>)
General Co-ordination of Evaluation and Professional Development	Provides assessment on training and competencies required by public servants to perform their duties and functions efficiently. Ensures training of public servants.	
General Directorates of Internal control units in Ministries, deconcentrated administrative political bodies, deconcentrated administrative bodies and government entities of the public administration of Mexico City	Monitor public servants' compliance in submitting their declarations of assets, tax and interests. They request from each ministry, deconcentrated administrative and entities information on public servants who submit their declarations. They verify the accuracy of assets and interests' declarations in the context of verifications and audits but do not have authority to verify, ask and cross-check fiscal and bank information.	Article 34 of the Organic Law of the Public Administration of Mexico City (<i>Ley Orgánica de la Administración Pública del Distrito Federal</i>) and Articles 28, 102 to 113, 113-A, 113 Ter, 113 Ters-1 to 4 of the Interior Regulation of the Public Administration of Mexico City (<i>Reglamento Interior de la Administración Pública del Distrito Federal</i>)

General Directorate of internal control units in territorial demarcations	Monitors public servants' compliance in submitting their declarations of assets, tax and interests. They verify the accuracy of assets and interests' declarations in the context of verifications and audits but do not have the authority to verify, ask and cross-check fiscal and bank information	Article 34 of the Organic Law of the Public Administration of Mexico City (<i>Ley Orgánica de la Administración Pública del Distrito Federal</i>) and Articles 28, 102 to 113, 113-A, 113 Ter, 113 Ters-1 to 4 of the Interior Regulation of the Public Administration of Mexico City (<i>Reglamento Interior de la Administración Pública del Distrito Federal</i>)
Directorate of Assets Situation	Applies guidelines on the growth of assets of public servants from ministries, administrative units, deconcentrated bodies and entities of the public administration, receives declarations of assets, analyses their contents, conducts inspections in case of external signs of wealth. Public declarations are handled by 22 public servants.	Article 34 of the Organic Law of the Public Administration of Mexico City (<i>Ley Orgánica de la Administración Pública del Distrito Federal</i>) and Articles 28, 102 to 113, 113-A, 113 Ter, 113 Ters-1 to 4 of the Interior Regulation of the Public Administration of Mexico City (<i>Reglamento Interior de la Administración Pública del Distrito Federal</i>)
General Directorate of Cyber Audit and Technological Projects	Approves and ensures that appropriate technological support is available to submit declarations. It monitors compliance with deadlines for submitting assets, interests and tax declarations throughout the Digital Platform. Ten public servants are in charge of providing this support.	Article 34 of the Organic Law of the Public Administration of Mexico City (<i>Ley Orgánica de la Administración Pública del Distrito Federal</i>) and Articles 28, 102 to 113, 113-A, 113 Ter, 113 Ters-1 to 4 of the Interior Regulation of the Public Administration of Mexico City (<i>Reglamento Interior de la Administración Pública del Distrito Federal</i>)

Source: Author, based on information provided by the Office of the Comptroller-General.

An additional Directorate has been added to this complex institutional framework since November 2016: the Directorate of Mobile Control Units (*Dirección de Contraloría Móvil*), which will hand off to the General Directorate of Legal Affairs and Responsibilities cases where irregularities are found. Its main functions are to receive and review complaints and reports from citizens, and conduct inspections and verifications in public entities, using mobile units in operation 24 hours per day in priority areas providing services to citizens. According to the Office of the Comptroller, this new directorate will promote citizens' participation in fighting corruption and resolve those claims in an expedited manner.

Analysis and interviews in Mexico City indicated that this institutional framework leaves some confusion as to which specific Directorate in the Office of the Comptroller public servants can consult for guidance in a timely fashion. This situation is exacerbated by the lack of human resources able to provide effective guidance to ministries and government entities. In addition, there is not sufficient co-ordination between these directorates, the Administrative Office of the Government of Mexico City (*Oficialía Mayor*) and the territorial demarcations (*delegaciones* or *alcaldías*) to ensure common understanding of the ethics policies. Some interesting initiatives were implemented in Mexico City to ensure this co-ordination, such as providing interactive information on the website of the Office of the Comptroller. Stands were also stationed in certain locations to answer questions related to, for instance, the filling out of declarations of assets and interests and some phone lines were offered, but they were not adequate to instil a culture of integrity.

In the SLAC-CDMX, this central function will remain in the Office of the Comptroller-General and internal control bodies whose functions will be to oversee, supervise and ensure internal control across Mexico City's public administration. They will also: specify administrative responsibilities; resolve the less serious administrative offences and substantiate the serious ones; ensure recruitment of public servants and compliance with ethics rules throughout the government; evaluate the results of measures to prevent integrity breaches annually; and propose amendments if needed. The internal control bodies will also assess the recommendations made by the Co-ordination Committee of the SLAC-CDMX to government entities of Mexico City to improve their performance and

internal control, to prevent administrative faults and corrupt acts from occurring in the first place.

While the new local anti-corruption system assigns the design, promotion and evaluation of public policies to fight corruption to the Co-ordination Committee, the design and execution of the general policy of the public administration to promote integrity and transparency in managing public affairs has been assigned to the Office of the Comptroller. This is an effective policy choice, given its experience on matters of integrity. Moreover, the intervention of internal control bodies should be dissociated from the preventing function, as their mandate is to enforce integrity rules. It is recommended that a central unit or directorate specialised in ethics and conflict of interest prevention, like the one at the federal level, be established within the Office of the Comptroller-General. Like the existing federal unit specialised in Ethics and Conflict of Interest Prevention (*Unidad de Ética, Integridad Pública y Prevención de Conflictos de Intereses*, or UEIPPCI) of the Ministry of Public Administration (*Secretaría de la Función Pública*, or SFP), this proposed ethics unit or directorate should lead the development of integrity policies, co-ordinate with ministries and government entities to implement the policies effectively and then evaluate them.

However, unlike the role of the UEIPPCI at the federal level, its role should be purely preventive. It should not process any integrity violations and should focus on developing, promoting and implementing all policies, regulations and related activities in Mexico City's public administration.

This Unit or Directorate should be in charge of defining and implementing coherent integrity and organisational policies. It could develop an open culture of integrity where ethical dilemmas, public integrity concerns and errors can be discussed freely, and it could ensure the development, implementation and update of the organisational ethics codes across government entities. In addition, it could provide policy guidance and support to other ministries in implementing integrity policies, and help to mainstream integrity measures in internal control and risk management. Its responsibilities should therefore be clearly dissociated from the enforcement function in charge of the internal control units, to encourage public servants to seek advice without being afraid of negative consequences and penalties.

This clear distinction between prevention and enforcement functions could help remove the repressive archetype typical of a legalistic approach. This typically focuses on enforcement of integrity and anti-corruption rules rather than on defining integrity within organisations. The effectiveness of this proposed integrity system will require close co-ordination between the enforcement and prevention functions, so the new Ethics Unit should work closely with internal control units and the General Directorates in the Office of the Comptroller-General. Creating a culture of integrity cannot rely only on sharing values and on individuals' intrinsic motivation.

To undertake this preventive role, Mexico City should ensure that the proposed Ethics unit has the human, financial and organisational resources to support effective implementation of integrity policies. Public servants assigned to work in this unit should hold a full-time position, be subject to the highest ethical standards and sufficiently trained to resolve and provide prompt guidance on ethical dilemmas and conflicts of interest.

A major challenge that will face this centralised unit in initiating its activities is the varying capacity of Mexico City ministries, government entities and territorial

demarcations. Interviews with public servants suggest that some territorial demarcations lack the resources to adapt the policies adopted and will need to be guided to develop a long-term strategy on how to build capacity in their own organisations. This, in turn, will require financial and human resources. Under Article 63, clause 2 of the Constitution of Mexico City and Article 8 of the LACS of Mexico City, the Co-ordination Committee will establish the basis for effective co-ordination between these preventive and enforcement functions under the jurisdiction of the Office of the Comptroller-General, the future Administrative Justice Tribunal (*Tribunal de Justicia Administrativa*) and the Specialised Anti-corruption Prosecutor (*Fiscalía Especializada de Combate a la Corrupción*). This new Ethics Unit or directorate should ensure that existing and future programmes, as well as related resources dedicated to cultivating a culture of integrity in the public administration, are also closely co-ordinated with the Administrative Office of the Government of Mexico City (*Oficialía Mayor*),¹ which is responsible for some aspects of human resources. In this way, integrity policies can be mainstreamed in every phase of the human resource processes.

3.3.2. Mexico City could establish Ethics Units in its 21 ministries to provide coherent, timely advice on integrity.

Even well-drafted policies promoting and managing ethics and conflict of interest issues are not sufficient to instil an integrity culture. International best practices show that organisations need dedicated and well-trained professionals or units responsible and accountable for implementing and promoting these policies. For instance, in Canada, senior officials and departmental officers for public services and values and conflicts of interest and post-employment ensure and support these two functions (Box 3.9).

Box 3.9. Canada: Senior officials for public service values and ethics and departmental officers for conflict of interest and post-employment measures

Senior officials for public service values and ethics:

- The senior official for values and ethics supports the deputy head in ensuring that the organisation exemplifies public service values at all levels of their organisations. The senior official promotes awareness, understanding and the capacity to apply the code amongst employees, and ensures that management practices support values-based leadership.

Departmental officers for conflict of interest and post-employment measures:

- Departmental officers for conflict of interest and post-employment are specialists within their respective organisations who have been identified to advise employees on conflict of interest and post-employment measures (...) of the Values and Ethics Code.

Source: Treasury Board of Canada Secretariat, www.tbs-sct.gc.ca/ve/snrsl-eng.asp.

These specialised units within government entities co-ordinate with the central entity to ensure effective engagement of government in promoting high standards of conduct throughout its organisations, rather than simply monitoring entities' compliance. While these specialised individuals or units are important pieces of the integrity institutional arrangement, heads and senior managers of public sector entities are also responsible for ensuring high standards of conduct in public servants' day-to-day activities and interactions with citizens and other stakeholders (OECD, 2009^[3]).

Currently, the implementation and promotion of integrity policies in Mexico City is the responsibility of both the Administrative Office of the Mexico City Government (*Oficialía Mayor de la Ciudad de Mexico*), which establishes directives and takes actions on training, hiring process, development and promotion of its human resources issues, and the various Directorates of the Office of the Comptroller-General of Mexico City (as seen in Table 3.5). Employees responsible for this within these two organisations are not, however, assigned full-time to these functions, and since their other duties are not related to these subjects, capacity for streamlining integrity policies in Mexico City is weak.

At the federal level, this situation is quite different. Ethics Committees (*Comités de Ética y de Prevención de Conflictos de Interés, CEPCI*) have been established in each federal entity to implement and promote ethics and conflict of interest policies since 2015. These committees were created by the Agreement issuing the Ethics Code for public servants of the Federal Government, the Integrity Rules for the exercise of the public function and the General Guidelines for enhancing the integrity of public servants and implementing permanent actions to promote ethical behaviour through the Ethics and Prevention Committees (*Acuerdo que tiene por objeto emitir el Código de Ética de los servidores públicos del Gobierno Federal, las Reglas de Integridad para el ejercicio de la función pública, y los Lineamientos generales para propiciar la integridad de los servidores públicos y para implementar acciones permanentes que favorezcan su comportamiento ético, a través de los Comités de Ética y de Prevención de Conflictos de Interés*) as an official link and contact point between the central Ethics Unit in the SFP and the federal entities. Their mandates evolve around three main issues: review, implementation and evaluation of organisational codes of conduct; promotion of guidance over integrity policies, including trainings; and reception and processing of integrity violations (OECD, 2017^[2]).

The OECD identified various challenges that Ethics Committees at the federal level will face when exercising their functions. These include a lack of training on integrity matters for its members; the fact that its members do not have full-time positions; that their performance depends on the individual motivation of its members; their position in the organisational chart of each government entity was not clear; their budget is insufficient, as is their co-ordination with the head of each government entity; and the fact that they play an enforcement rather than preventing role (OECD, 2017^[2]). Mexico City should consider these challenges in implementing the proposed recommendation.

In the context of approving the SLAC-CDMX legislative framework, the Office of the Comptroller has indicated that Ethics Committees will be created in Mexico City's 21 ministries to provide advice and ensure the enforcement of ethics and conflict of interest policies. No guidelines for their functions and organisational composition have been drafted or discussed among its public servants. In drafting these guidelines, Mexico City could consider the experience of the existing CEPCIs but should avoid the weaknesses identified at the federal level (OECD, 2017^[2]) and clearly define their

preventing role. Mexico City should thus note that ensuring consistency of this new institutional arrangement requires effective co-ordination between all actors responsible, to provide guidance to public servants and implement the new rules, to avoid sending contradictory messages to public servants.

Given the budgetary constraints and the size of each ministry in Mexico City, positive experiences from other countries, such as Canada (Box 3.9) and Germany (Box 3.10), could be considered for reference.

Box 3.10. Germany's contact persons for corruption prevention

Germany, at the federal level, has institutionalised units for corruption prevention as well as a person responsible for promoting corruption prevention measures within a public entity. The contact person and a deputy must be formally nominated. The "Federal Government Directive concerning the Prevention of Corruption in the Federal Administration" defines these contact persons and their tasks as follows:

1. A contact person for corruption prevention shall be appointed based on the tasks and size of the agency.

One contact person may be responsible for more than one agency. Contact persons may be charged with the following tasks:

- serving as a contact person for agency staff and management, if necessary without having to go through official channels, along with private persons;
 - advising agency management;
 - keeping staff members informed (e.g. by means of regularly scheduled seminars and presentations);
 - assisting with training;
 - monitoring and assessing any indications of corruption;
 - helping keep the public informed about penalties under public service law and criminal law (preventive effect) while respecting the privacy rights of those concerned.
2. If the contact person becomes aware of facts leading to a reasonable suspicion that a corruption offence has been committed, he or she shall inform the agency management and make recommendations on conducting an internal investigation, on taking measures to prevent concealment, and on informing the law enforcement authorities. The agency management shall take the necessary steps to deal with the matter.
 3. Contact persons shall not be granted any authority to carry out disciplinary measures or lead investigations in disciplinary proceedings for corruption cases.
 4. Agencies shall provide contact persons promptly and comprehensively with the information needed to perform their duties, particularly with regard to incidents of suspected corruption.

5. In carrying out their duties of corruption prevention, contact persons shall be independent of instructions. They shall have the right to report directly to the head of the agency and may not be subject to discrimination as a result of performing their duties.
6. Even after completing their terms of office, contact persons shall not disclose any information they have acquired about staff members' personal circumstances; they may, however, provide such information to agency management or personnel management if they have a reasonable suspicion that a corruption offence has been committed. Personal data shall be treated in accordance with the principles of personnel records management.

Source: German Federal Ministry of the Interior "Rules on Integrity",*
https://www.bmi.bund.de/SharedDocs/Downloads/EN/Broschueren/2014/rules-on-integrity.pdf?__blob=publicationFile.

Thus, the Office of the Comptroller could identify 21 public officials among those who have already received ethics training, obtained the highest score in the assessment of their ethical profile made under the new Integral and Preventing Evaluation (*Evaluación Preventiva Integral*, EPI) and have expressed interest in this matter. These should be designated to serve as Integrity Contact Points. These public servants should be clearly integrated in the structure of each ministry, should exercise their mandate independently of internal pressure of any kind, report directly to the head of the public entity, and be informed and properly trained on the new role they will play by the proposed dedicated ethics unit within the Office of the Comptroller. Their mandate should focus exclusively on providing guidance on integrity matters and not on processing complaints. That task would need to be completely distinct, in dedicated units (see Chapter 6. on internal control and the section in this chapter on the administrative disciplinary regime).

To ensure the effectiveness of this proposed integrity measure, the Office of the Comptroller should co-ordinate and liaise with all Integrity Contact Points (or persons) in the public administration, monitor their work, provide tools and materials, support them with *ad hoc* guidance, and provide up-to-date trainings focusing on integrity management. This practice is followed in the Netherlands, where such training courses are aimed at providing insight into the role of an integrity officer (Huberts and Hoekstra, 2016^[12]). These training courses could be built in co-ordination with the School of Public Administration (*Escuela de Administración Pública de la Ciudad de Mexico*, or EAP). Additionally, a network between these public servants should be established to ensure consistency of the message, to maintain a critical view of the integrity policy across Mexico City organisations and to offer an opportunity to learn from each others' experiences.

Finally, to ensure coherence of the SLAC_CDMX system, these proposed Integrity Contact Points and the Ethics Unit within the Office of the Comptroller need to co-ordinate with all members of the SLAC-CDMX Co-ordination Committee, set out in Article 63 Clause 2 of the Mexico City Constitution, in order to determine whether a large Integrity Contact Point staffed by more than one person could be set up in future.

3.3.3. Strategic human resources management could reinforce integrity initiatives in Mexico City's public administration, to help restore public trust.

Enhancing integrity standards in the public administration is not enough to create a strong integrity environment. A strong institutional fabric is needed, rather than a purely formal commitment. Committed public servants with the legal authority to supervise compliance with ethics rules and prioritise public interest can help guarantee a successful integrity system, but they need to be supported at the highest levels by senior leaders and high-ranking officials, who must lead by example.

In Mexico City, high-ranking officials and managers have expressed their commitment to set the highest standards of conduct in all public organisations, by participating actively in training sessions and forums on public integrity. However, effective implementation of the integrity institutional framework will require commitment. To build and to retain the required human capital to work on integrity issues, public servants need the expertise for carrying out the mandate, responsibilities that prioritise integrity initiatives and excellent job conditions.

International experience suggests that personnel working on integrity issues should be granted an appropriate level of job security, earn salaries that reflect the nature and specificity of their work and, to some extent, be shielded from undue political interference in the exercise of their functions, to ensure continuity and consistency in the decisions they make. All these requirements are necessary to ensure that the proposed public servants working as Integrity Contact Points exercise their duties and functions in a consistent, coherent and unbiased manner.

The enactment on 13 June 2000 of the first Public Service Law for the Public Administration in Mexico City (Ley del Servicio Público de Carrera de la Administración Pública del Distrito Federal, or LSPCAP) attempted to professionalise the public service by instituting merit-based management of its workforce and establishing a performance evaluation system, professional training and promotion. However, the law was not effectively enforced. It was amended on various occasions, and sought to professionalise the public service in Mexico City by establishing a merit-based approach, guaranteeing public servants equal opportunities and continuous development. It was enacted to ensure that public administration achieve its goals, execute programmes to satisfy citizens, provide quality services and employ qualified personnel acting impartially and free of prejudice who were loyal to the organisation.

Unlike legislation in the United States, Canada and some European, Asian and Latin-American countries, the LSPCAP did not include a set of rules and principles regulating all public servants' behaviour within the civil service regime (Dussauge Laguna, M., 2007^[13]). The latest version of this law, dated 26 January 2012, notes that it should apply essentially to middle managers and personnel of free appointment of the central administration, who were considered part of the civil service, but not to unionised employees or to a specific number of professionals from various sectors (education, public safety, law, etc.).

As currently written, this opened the door to exempt from its application directors of divisions and counterparts involved in political activities, who were included in a list, and some personnel were appointed under exceptional circumstances for short periods of time. In practice, it was used as a permanent basis for covering the requirements of the various units and directorates of Mexico City public organisations. The contracts now offered to a large percentage of public servants do not offer job security, and allow for the

dismissal of staff without reason and without notice. As a result, staff need to consider alternatives – and are likely to seek out other means of financial security.

In interviews with public officials, it was noted that staff were recruited based on family, personal or political relationships, with no formal hiring process before the new Integral and Preventing Evaluation. If staff members are dismissed, there is a risk they might leave with sensitive information. This situation seems worst at the territorial demarcations level, since after each election of a new delegate (*delegado*) a high percentage of those working in the various divisions and units of the territorial demarcations give up their positions to members of a new workforce.

Adopting a clear and transparent appointment (and dismissal) procedure for public servants, based on merit, would help reinforce internal control and a culture of integrity in the government of Mexico City. At present, the employees in charge of ensuring integrity are often personnel of free appointment (*de confianza*).

To uphold standards of conduct among its public servants, Mexico City adopted internal policies and guidelines stipulating that high-ranked public servants provide guidance to their subordinates on how to conduct themselves in the exercise of their daily activities and also on prohibited conduct. However, interviews with public officials confirmed that these policies and guidelines did not have the intended effect. The guidelines outlining deadlines, procedures, exceptions and tools to submit, for instance, and the disclosure of public servants' assets, interests and revenue, did not help managers provide advice and counsel to their subordinates or resolve ethical dilemmas and conflicts of interest as they arise. They were also not helpful in generating open discussions with employees on performance results, the challenges faced in obtaining these results and ethical dilemmas or conflicts of interest encountered.

Leadership positions play a key role in promoting integrity within organisations, and the current turnover in personnel undermines that goal. Open dialogue among public servants is important for buy-in of integrity strategies (Zepeda, 2016^[14]). Mexico City would do well to consider adopting a new Law of Public Service within the future integrity policies. This would be adopted in the context of the SLAC-CDMX, to create a more stable public service, and it could help ensure the implementation of public integrity policies that promote an integrity culture in the public administration. The Office of the Comptroller-General could co-ordinate this initiative, since it is responsible for establishing the procedures and guidelines to assess the competencies and performance of public servants, the recruitment of candidates for positions and for co-ordinating the operation and development of public service career system within the public administration, under the Organic Law of the Organic Administration of Mexico City (*Ley Orgánica de la Administración Pública del Distrito Federal*, or LOAP).

In addition to this proposed new public service law, other human resources policies could help achieve this objective. Integrity measures could also be incorporated into human resources management (HRM) practices in general (Table 3.6). It is the employees who ultimately shape and build an open organisational culture, encouraging ethical behaviour and open discussion for resolving any ethical problems. In addition to including integrity trainings in the induction process for entry into the public service, integrity should also be streamed in HRM processes at the recruitment level.

Table 3.6. Mainstreaming integrity throughout HRM practices

HRM practices	Mainstreaming integrity
Human resources planning	Assessing integrity risks of different positions and planning accordingly
Entry	Background checks, ethical tests, managing potential conflicts of interest arising from previous employment (the “revolving door”); developing job descriptions with ethical considerations in mind
Professional development, training and capabilities certification	Customised trainings on integrity policies
Performance evaluation	For managers: assessing management of their employees’ ethical dilemmas or conflicts of interest; For employees: assessing adherence and compliance with integrity policies
Severance	Monitoring potential conflicts of interest arising from subsequent employment (i.e. the “revolving door”)

Source: (OECD, 2017^[21]), *OECD Integrity Review of Mexico: Taking a Stronger Stance Against Corruption* (p. 62), OECD Publishing, Paris.

3.3.4. The Integral and Preventing Evaluation (EPI) could help ensure that public service integrity values are mainstreamed in human resources management.

The Office of the Comptroller recently developed a recruitment evaluation mechanism for public servants in various public organisations, to support its General Development Programme 2013-2018. Adopted on 21 July 2016, the Integral and Preventing Evaluation (Evaluación Preventiva Integral, or EPI) is a recruitment tool to evaluate the performance of public officials in 12 areas of competency. These include “respect for institutional values” and cover behaviour from recruitment to the termination of employment (Box 3.11). This assessment was first developed for the police and public safety staff, but was extended to the hiring of all medium- to high-level public service positions in Mexico City. The Office of the Comptroller-General considers this evaluation a tool for guaranteeing public official competences, suitability, honesty and a high level of public trust in the exercise of their duties and functions, as well as to prevent misconduct and deter corruption.

Box 3.11. Recruitment process and integrity under the Integral and Preventing Assessment (EPI)

Adopted on 20 July 2016, the Integral and Preventing Evaluation (*Evaluación Preventiva Integral*, EPI) is an important mechanism for controlling, preventing and fighting corruption as part of the initiatives to establish the Local Anti-corruption System and to strengthen public service in Mexico City.

The EPI uses the job profile as a benchmark and consists of evaluations measuring public officials' level of trust, examining their reliability and integrity, as well as considering their professional competences. It consists of a psychometric evaluation, psychological interviews, socio-economic investigations and polygraph examinations. The goal is to select the best candidate to occupy the position and ensure that his or her profile fits with the list of requirements for the position.

It is administered by the General Co-ordination of Evaluation and Professional Development (*Coordinación General de Evaluación y Desarrollo Profesional*), and public servants are administered its four examinations when they are recruited or promoted to higher positions; change their positions within the public administration or are appointed to a permanent position. Its purpose is to satisfy the requirement of professionalisation of candidates for the position they are applying to.

Tests are administered to all public servants, with the exception of those who are unionised, working in ministries, deconcentrated administrative bodies and certain other government entities of Mexico City public administration. Territorial demarcations (*delegaciones*) do not use the EPI as a recruitment mechanism.

After the administration of the EPI's examinations, areas for improvement are identified and, if necessary, further training sessions are recommended, as a part of the strategy to enhance public servants' integrity. Only officials whose evaluations indicate they require training in ethical values receive a refreshment training session.

In 2016, the Office of the Comptroller administered 8 946 assessments at the recruitment level and on the occasion of a public official's promotion to a higher position.

Sources: Ciudad de Mexico (2016), 4to Informe de Gobierno, p. 514, document online; Contraloría General de la Ciudad de Mexico, 4to Informe de Gobierno (2016), Contraloría General de la Ciudad de Mexico (2017), Informe de Actividades, electronic version not available to the public.

While the EPI is an interesting and innovative recruitment tool, it raises some concerns about the validity and accuracy of the assessments administered. Using polygraphs to test an individual's honesty is controversial, since how nervous the person tested can influence the result (American Psychological Association, 2004^[15]). Such an assessment cannot guarantee that qualified candidates will follow the required ethical rules or detect potential conflicts of interest and resolve ethical dilemmas.

Mexico City requires all potential candidates to undertake psychometric testing, but this is a considerable weakness in the current recruitment practices. There are no effective controls to ensure that appointments are made based on merit and in accordance with the profile of the position open for recruitment. Vacancies are not advertised online, even though this is required by the Transparency Law. The tests administered do not include integrity questions on the candidate's experience and background or in dealing, for example, with authority, diverse cultures and financial management, and they do not expose candidates to ethically complex situations where they should use sound judgment rather than follow instructions, etc. Mexico could consider international experience to enhance the EPI, to ensure that it is administered objectively.

Another area of concern with the EPI is that it is administered when public servants move from one public organisation to another, or are promoted to another position, but not when they move within their organisation. As currently structured, it focuses only on the recruitment process and does not include a review of public official performance while the public servant is occupying the position. It is thus recommended that Mexico City adopt an effective performance evaluation mechanism and consider issuing guidelines including ethical and integrity issues. Managers and supervisors would use such tools for regular performance evaluations of their personnel (Box 3.12). Managers should be trained in: how to use judgement when cases are brought to their attention; how to identify and signal unethical behaviour in discussions with their staff; how to promote a culture of open discussion in the workplace; and how to resolve conflicts of interest when they arise.

Box 3.12. Canada's performance management tool in the Public Service

In 2015, the Treasury Board Secretariat of Canada issued a new Performance Management strategy. This is intended as a tool to improve the work performance and productivity of individuals, teams and organisations in the Canadian public service. It was adopted to help the Canadian public sector respond to budgetary and fiscal pressures, increasing demands for public services, and the need for more transparency in reporting on the use of government funds. Under the guidelines issued, its proper implementation in the public service can help build and maintain trust between employer and employee, and create conditions to allow all employees to maximise their contributions and provide world-class service to Canadians.

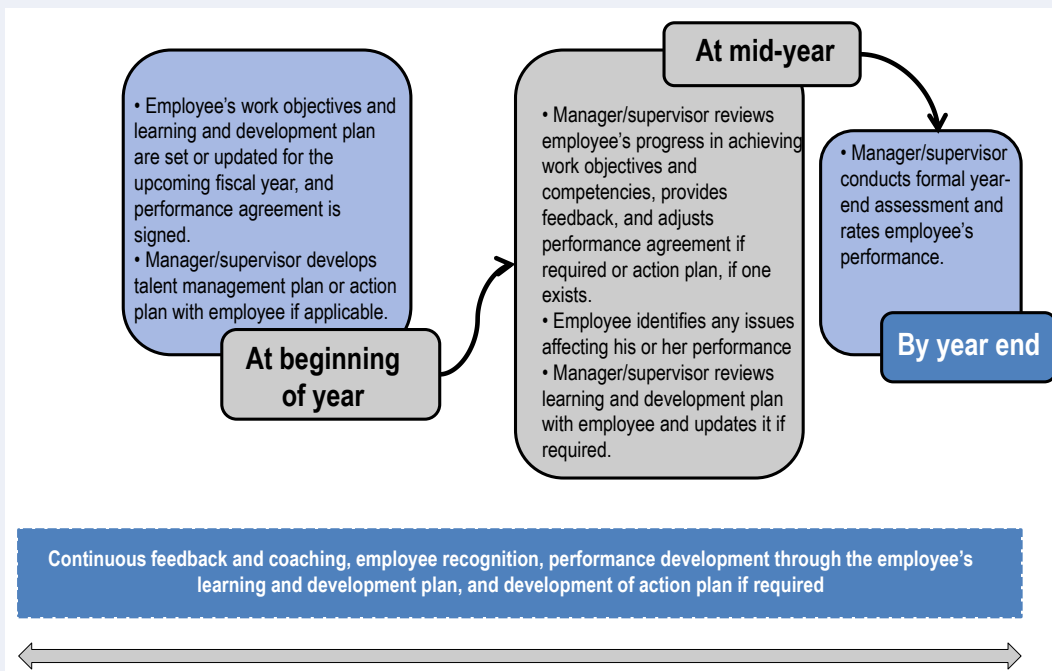
This Performance Management strategy is the responsibility of deputy heads, or their delegates, who should ensure its consistent, equitable and rigorous implementation across the core public administration. The focal point of performance management is the performance agreement, which spells out the work expectations for each employee.

The performance management annual cycle:

Performance management is an ongoing process that involves planning, developing, coaching, providing feedback and evaluating employee performance. Some performance management requirements are time-specific:

- at the beginning of the fiscal year, when performance expectations are established;
- mid-year, when performance is reviewed; and
- by year-end, when performance is assessed.

Other requirements are ongoing and apply to activities throughout the year and for employees on probation. These include review panels.



Source: Treasury Board Secretariat, "Performance management program for employees", document available online: www.canada.ca/en/treasury-board-secretariat/services/performance-talent-management/performance-management-program-employees.html.

Properly used, performance evaluations are invaluable tools for transmitting values and expectations, evaluating past and future objectives, and identifying talented employees and issues that may affect the organisational culture. They can also help uphold standards of conduct in the workplace, but they require administration by well-trained managers, as confirmed by a Canadian public service employee survey (OECD, 2016^[16]) cited in Box 3.13.

Box 3.13. Managers' key role in establishing an integrity policy

Managers play a key role in instilling an integrity culture. A Canadian survey of public service employees found that “sound leadership, at both the supervisor and the senior management level, is closely associated with positive perceptions of values and ethics in the workplace. Employees whose supervisor exhibits good management practices, such as providing feedback on their job performance, keeping promises, informing them about issues affecting their work, and assessing their work against identified goals and objectives, tend to respond more positively to questions about values and ethics. For instance, employees who agreed that they receive useful feedback from their immediate supervisor on their job performance were more likely than employees who disagreed to indicate that:

- They know where they can go for help in resolving an ethical dilemma or a conflict between values in the workplace (82% versus 51%).
- Discussions about values and ethics occur in their workplace (66% versus 35%).
- Senior managers in their organisation lead by example in ethical behaviour (68% versus 28%).” (Treasury Board of Canada Secretariat, 2012-13).

It is worth noting that the text of any code of conduct and the arrangements for implementing it should be reviewed on a regular basis, to make sure they are well-adapted to current needs and that any deficiencies are rectified.

Source: Cited in (OECD, 2016^[17]), *The Implementation of the Palestinian Code of Conduct: Strengthening Ethics and Contributing to Institution-Building*, OECD Public Governance Reviews, OECD Publishing, Paris.

3.4. Strengthening integrity culture in Mexico City by raising public servants' awareness of ethics and conflicts of interest

3.4.1. Mexico City could initiate an awareness-raising campaign co-ordinated by the proposed Ethics Unit, Integrity Contact Points (or persons), human resources representatives of public organisations.

When the Office of the Comptroller implemented its current integrity policies, it adopted several awareness-raising measures comparable to those adopted in OECD countries, which range from:

- dissemination of rules or guidelines when the public official takes office;
- proactive updates on any changes to the public integrity framework;
- publication of the public ethics policies online or on the organisation's Intranet;
- regular reminders about public integrity policies;
- training;
- regular guidance and assistance;

- advice lines or help desks where officials can receive guidance on filing requirements or conflict-of-interest identification or management (OECD, 2014^[9]).

Upon joining Mexico City organisations, newly recruited candidates are asked to sign in duplicate a copy of the COSP, which then is sent to the Administrative Office of the Government of Mexico City (*Oficialía Mayor*) and to the Office of the Comptroller-General. A copy is filed in the official protected personnel dossier at the Administrative Office of the Government of Mexico City, as is a copy of the employment contract.

Additional measures have also been taken to disseminate integrity policies throughout the government. These include: publishing the COSP on each website of Mexico City organisations and communicating this policy to its territorial demarcations; editing booklets and leaflets for distribution among public servants; publishing the results of the implementation of the public declarations policy in the website with the slogan “We all do it. Clear accounts for you” (*Todos Cumplimos. Cuentas claras por ti*), setting up training sessions to ensure their compliance with the public declarations rules, providing assistance using a telephone number, etc.

Interviews with public servants and a review of the documents obtained indicated that no reminders of these integrity rules or additional guidelines were issued to clarify any problems that might arise, to guide public servants in the daily exercise of their duties and functions. Moreover, no monitoring mechanisms were set up to ensure the effective implementation of the policies. A considerable number of ministries and territorial demarcations have not complied by publicising the COSP, even though they are required to do so under the code. Additional problems were also reported by public officials with the implementation of some integrity policies in territorial demarcations and some decentralised bodies and government entities.

In light of these issues, Mexico City needs to consider these challenges and draft a clear communication strategy to raise awareness of the future Ethics Code and integrity policies, the available tools and guidance for public servants, so that consensus can be reached among them. To ensure reaching out all Mexico City public organisations, including territorial demarcations when implementing this new integrity framework, Mexico City could launch a consciousness-raising campaign co-ordinated by the proposed Ethics Unit, the Integrity Contact Points (or persons) and responsible for human resources in public organisations, and including reaching out to the private sector, civil society organisations and citizens.

These awareness-raising campaigns could include: posting conspicuous banners with the principles and values of the new Code at the entrance of each location; reminders of each value every month in public servants’ Intranet system; surveys of officials for their feedback on implementation of the integrity policies; practical tools, such as workplace calendars with anti-corruption information, for example deadlines for submission of asset declarations; reminders of principles to guide public officials’ behaviour, etc. Such guiding measures could support the Local Anti-corruption System and should aim to uphold public servants’ standards of conduct that need to focus on the public interest.

3.4.2. Ethics Units could be created at the Office of the Comptroller implement raising awareness training programmes based on the results of a survey on training needs and such trainings be offered in an annual basis tailored to each public organisation.

In addition to the above-mentioned awareness-raising initiatives, ethics training programmes also need to be drafted to ensure that public servants become partners in creating an integrity culture. The behavioural objective is to encourage public servants to ask ethical questions, and that managers come to see this as a natural part of their day-to-day work (Gilman, 2005^[4]). To achieve this objective, special attention should be paid to the preparation and design of ethics training. Training could be developed for individual public organisations or target groups of officials, be interactive, led by management, address legal requirements/rules and values; based on real scenarios that are associated with the activities of the institution or group of public servants and are relevant for the public organisation or group of officials to which they are addressed.

Ethics training cannot be considered a one-time exercise. Experience suggests that training needs to be repeated as people forget, circumstances may change, and responsibilities increase, law and regulations could be amended or new ones could be enacted (see Box 3.14). For these reasons, the most rigorous ethics regimes embarked on a strategy that emphasises regular training exposure (Gilman, 2005^[4]).

The Office of the Comptroller-General with the collaboration of the School of Public Administration of Mexico City (*Escuela de la Administración Pública de la Ciudad de Mexico*, EAP) and the Administrative Office of the Government of Mexico City (*Oficialía Mayor*) as well as the Mexico City's Institute for Transparency, Access to Public Information, Data Protection and Accountability (*Instituto de Transparencia, Acceso a la Información Pública, Protección de Datos Personales y Rendición de Cuentas de la Ciudad de México*, or InfoDF) have built a series of training programmes as detailed in Table 3.7.

Table 3.7. Training sessions provided to public servants in Mexico City since 2015

Training sessions	Target Audience
<p>Applying public policies to promote values and principles within the public service and prevent conflicts of interest (<i>Aplicación de las Políticas Públicas de Actuación para Promover los Valores y Principios que rigen al Servicio Público y para Prevenir la Existencia de Conflicto de Intereses</i>).</p> <p>Main objective: Familiarise public servants with the government strategy on preventing conflicts of interest, current policies on conflicts of interest, guidelines on disclosure of assets, interests and tax information.</p>	Public servants from all government entities (ministries, deconcentrated bodies, government entities and territorial demarcations). In its first phase of implementation, 353 public servants from the Office of the Comptroller and 62 from the internal control bodies received this training.
<p>Mandatory training course explaining how to fill out the declaration of no conflict of interest (<i>Consulta-Respuesta de No Conflicto de Intereses y Manifestación de No Conflicto de Intereses</i>) forms.</p> <p>Main objective: This training course also focused on ethics or management of conflicts of interest.</p>	Public servants from public organisations of Mexico City who participate in public procurement processes. During the first stage of its implementation in 2015, 25 training sessions were offered to 171 public servants from 59 public organisations.
<p>Online 16-hour training course on Public Ethics and Administrative Responsibilities (<i>Ética Pública y Responsabilidades Administrativas</i>) offered by Mexico City's School of Public Administration of (<i>Escuela de Administración Pública de la Ciudad de México</i>) on public ethics, basic ethical concepts and exercises to assess their own behaviour, resolve ethical problems and identify inherent public service values designed and implemented as part of the implementation of the objectives of the General Development Programme 2013-2018.</p> <p>Main objective: Ensure that officials occupying a position in Mexico City public organisations uphold highest standards of conduct in exercising their duties and functions.</p>	All public servants occupying a position within the organisational structure and those receiving a salary working in the government of Mexico City. A total of 3 059 have received this training since February 2016.
<p>Voluntary in-class training sessions offered by the Office of the Comptroller-General to raise awareness of ethical standards.</p>	All public servants in Mexico City public organisations.
<p>Certification of internal control officers in co-operation with the School of Public Administration of Mexico City (<i>Escuela de la Administración Pública de la Ciudad de México</i>).</p> <p>Main objectives: Professionalise all public servants working in internal control bodies across Mexico City organisations.</p>	Experts on the field at the director-general level, from the internal control units of ministries, deconcentrated bodies, government entities and political administrative bodies.
<p>Training course on professional competences with the purpose of enhancing professionalism and capacity of public servants in various aspects, including public service and ethics to promote efficiency, professionalism, impartiality, ethics within preventive, efficient management against corruption.</p>	All public servants. Almost 1 233 public servants were certified in 2016 and the first quarter of 2017.
<p>Workshop to revitalise ethics and integrity in public servants of Mexico City (<i>Taller para Revitalizar la Ética e Integridad en las Personas Servidoras Públicas de la Ciudad de México</i>)</p> <p>Main objective: Generate an ethics culture and integrity among public servants. The course was offered for the first time on February 2017, to encourage public servants to reflect on the importance of their behaviour. In executing their duties and functions they need to be in line with the ethics and standards of conducts of its public service. This training seems to be focused on discussion on how to apply these standards in their daily work.</p>	All public servants of Mexico City public organisations.
<p>Mandatory online training session on ethics offered by INFODF (Instituto de Acceso a la Información Pública y Protección de los Datos Personales de la Ciudad de Mexico). While all public servants received a certification for attending these two training sessions, it seems not to have provided specific guidelines to middle managers or head of offices on how to apply and promote these ethical rules in the workplace.</p>	All public servants across Mexico City organisations. A total of 2 040 public servants received this training between January and June 2016.

Source: Author, based on the information provided from the Office of the Comptroller-General and available online and in reports issued by Mexico City.

Discussions with public servants showed that this ethics trainings was appreciated by attendees but that their content was considered too theoretical and general in nature and could not be applied in their daily work. In the particular case of territorial demarcations, these ethics trainings were offered only to managers and not to other officials that resulted in an incomplete adoption of these integrity policies. Moreover, from these discussions it appears that, while public servants received an induction training to

familiarise them with the public administration of Mexico City, they could not remember whether the training made reference to the requirements, rights and obligations related to their positions and the values of Mexico City organisations. They also mentioned, for instance, that after induction trainings, no follow-up was conducted to assess its effectiveness or receive their feedback.

International experience suggests that induction training offers an excellent opportunity to set the tone on integrity at the very beginning of the working relationship, explaining the principles and values associated with working for the public sector and to highlight ethical issues and conflicts of interest that may arise in the exercise of public functions (Box 3.14).

Box 3.14. Integrity induction training for public servants in Canada

In the Government of Canada, integrity training for public sector employees is conducted at the Canada School of Public Service. The Treasury Board Secretariat works closely with the School to develop training for employees on ethics. The School recently updated the orientation course for public servants on values and ethics, which is part of a mandatory curriculum for new employees. In addition, the course is used by federal departments as a refresher for existing employees, to ensure they understand their responsibilities under the Values and Ethics Code for the Public Sector. To ensure accessibility for all public servants, the course is available online.

The course focuses on familiarising public servants with the relevant acts and policies, such as the Values and Ethics Code for the Public Sector, the Public Servants Disclosure Protection Act, and the Policy on Conflict of Interest and Post-Employment. Additionally, modules on ethical dilemmas, workplace well-being and harassment prevention are included in the training. Through the five different modules, public servants not only increase their awareness of the relevant policy and legislative frameworks, but also develop the skills to apply this knowledge as a foundation to their everyday duties and activities.

The training course includes a dedicated module on the Values and Ethics Code for the Public Sector. The module highlights the importance of understanding the core values of the federal public sector as a framework for effective decision making, legitimate governance as well as for preserving public confidence in the integrity of the public sector. The module contains a section on duties and obligations, laying out the responsibilities for employees, managers/supervisors, and deputy heads/chief executives in detail. This section also discusses the Duty of Loyalty to the Government of Canada, stating that there should be a balance between freedom of expression and objectiveness in fulfilling responsibilities, illustrated with an example from social media. At the end of the module, two questions are posed, to ensure that participants have understood the purpose of the Values and Ethics Code for the Public Sector and the foundation for fulfilling one's responsibilities in the public sector.

An innovative component of the integrity training course is the module on ethical dilemmas. The purpose of the module is to ensure familiarity with the Values and Ethics Code for the Public Sector, and it includes a range of tools to cultivate ethical decision making amongst public servants. The module also informs public servants of the five core values for the Canadian public service – respect for democracy, respect for people, integrity, stewardship and excellence – prompting them to think about how

to apply these values in their everyday role. Key risk areas for unethical conduct, such as bribery, improper use of government property, conflict of interest and mismanagement of public funds are identified, with descriptions that put the risks into practical, easy-to-understand language. By posing three different scenario questions and asking participants to select competing public sector values, the module also encourages public servants to think about how conflicts between these values may be resolved.

Source: Treasury Board Secretariat, Canada.

The Office of the Comptroller could therefore consider developing, in collaboration with the EAP, a comprehensive capacity-building strategy for its public administration, to ensure a common understanding among all public servants about how the machinery of the government works, the core values of the public administration and prompting them to think about how to apply these values in their daily work.

To ensure a common understanding on the integrity rules and help to instil a culture of integrity in its public entities, Mexico City could also call upon the proposed Ethics Units in the Office of the Comptroller to conduct surveys on training needs to identify those subject matters that need to be revisited.

In addition to induction training programmes, Mexico City could also consider building a strategy to continuously maintain training offered to high-ranking officials and work with them to develop their own integrity action plan. This would identify integrity risks and challenges in their workplace. They would also discuss how they intend to implement these plans, what the potential barriers are to implementing these action plans, and provide each other support and share ideas on potential solutions. The example of the sub-national government of Catalonia can be instructive in this regard (see Box 3.15).

Box 3.15. Follow-up to ethics trainings in Catalonia

Ethics training provided by the Anti-Fraud Office of Catalonia is based on a training itinerary, rather than on a one-off training course approach. Follow-up for a training course is an important part of the itinerary. During the training course, each participant develops his or her own integrity action plan. In this plan, each participant identifies integrity risks and challenges in their individual workplace. During the follow-up trainings, participants discuss the implementation of their personal plan. They discuss barriers that have been identified in implementing the actions proposed in their individual action plan, and provide each other support, sharing ideas on solutions.

Source: OECD-ACN and SIGMA (2013), “Ethics training for public officials”, presentation by Jordi Tres, Head of Training Department, Anti-Fraud Office of Catalonia, at the Vilnius seminar, p. 18, www.sigmaxweb.org/publicationsdocuments/EthicsTrainingforPublicOfficials_11Feb2013.pdf.

Finally, Mexico City could make some improvements to the training programmes offered to professionalise public servants in charge of doing audits or public procurement (see Chapters 6 and 7), to ensure that they will be able to identify and properly manage and resolve conflict of interest and ethics dilemmas that could arise in the context of their activities. The training now offered to those working on these area of activities focuses more on familiarising them with how to verify if the declaration of no conflict of interest

has been properly filled out and provide assistance if required rather than to detect potential conflicts of interest that may affect the integrity of the public decision process.

3.4.3. Mexico City could consider using e-learning tools to raise awareness of the new ethics framework and help public servants identify and resolve conflicts of interest and ethics dilemmas

In Mexico City, e-learning has been implemented for the training course on Public Ethics and Administrative Responsibilities with some success. It was built in modules with self-assessment sections that helped public servants to observe the increase of their knowledge. Mexico City could consider using this same format for e-learning modules. Public servants could be presented with past cases in the public administration, to see how they could be resolved based on the current integrity framework. This e-training course could help them recognise, manage and resolve ethical dilemmas and conflicts of interest that could arise in at-risk areas, encouraging an open culture for discussions of these matters within the public organisations, to remain alert for potential situations that may arise.

The e-training should include scenarios that encourage public servants to reflect on solutions that are best for the public interest. Public servants should also be reminded that they should seek practical advice and guidance when dealing with grey, unregulated areas. They could be encouraged to consult their superiors, the new proposed Ethics Unit or the proposed Integrity Contact Points. Refresher ethics training with similar content should be offered to managers and other public servants. Ethics dilemmas evolve based on changes that may occur as a result of government priorities and complex interactions with the private sector. The effectiveness of this ethics training can be increased if it is part of a more comprehensive framework. Channels for reporting suspicions of corruption by public servants, whistle-blower protection, and other corruption prevention measures in the context of the integrity strategy, could also be explored.

3.4.4. Mexico City could also consider experimenting with mechanisms based on insights from research in behavioural sciences, and consider scaling up successful interventions to build a strong integrity culture.

The conventional approach to preventing corruption and encouraging integrity is essentially based on a traditional rational choice model, in which individuals maximise their self-interest through a decision-making process based on a cost-benefit analysis of alternatives. This usually uses the lens of a principal-agent-client approach, excluding psychological aspects (OECD, 2017_[11]). Integrity policies usually stress the importance of imposing control and penalties, as mechanisms both to increase the costs and lower the benefits of undesirable behaviour. They also typically reduce decision makers' discretion to reduce their scope for misbehaviour, or at least manage the risks that arise with conflict of interest rules, ethics codes or codes of conduct. These traditional measures are sometimes perceived as ineffective. Questions have been raised as to whether their costs outweigh the supposed benefits (Anechiarico and Jacobs, 1996_[18]).

New experimental evidence, both from the laboratory and the field, has provided a more comprehensive picture of humans facing perverse incentives (Lambsdorff, 2012_[19]). A body of research that can help to frame innovative and effective approaches to integrity and to combat corruption now exists (Lambsdorff, 2012_[19]) and (Lambsdorff, 2015_[20]); (Boehm, Isaza E and Villalba Díaz, 2015_[21]). In recent years, some countries and

international organisations, such as the World Bank and the OECD, have incorporated behavioural science into their public policy.

In addition to adopting a new integrity framework in the context of the SLAC-CDMX, Mexico City could consider completing future measures, such as the adoption of its new Ethics Code and others to ensure its effective implementation based on insights from research in behavioural sciences. For this purpose, piloting and testing measures in specific risk areas that the Office of the Comptroller or internal control units have identified could be undertaken.

One might be the so-called “moral reminders” that can be built into key decision-making processes to remind public servants of the correct behaviour in a specific context. Research suggests that small reminders of the correct behaviour do have a measurable impact on the probability of cheating (Ariely, 2012^[22]); Box 3.16 and Box 3.17). A concrete policy measure that Mexico City could take, for example, is to include a line that procurement officials or human resource managers would sign just before taking an important decision in managing a procurement contract or a hiring process. The line could read: “I will take the following decision according to the highest professional and ethical standards”. By signing, the official implicitly links his name with an ethical conduct (OECD, 2017^[10]).

Box 3.16. Ethical reminders

Behavioural research shows that more ethical choices can be triggered by reminding people of moral norms. This can be an inconspicuous message, such as “Thank you for your honesty”. Contextual clues in the immediate situation function as reference to an underlying norm (Mazar N. and Ariely D., 2006^[23]). Such moral appeal has in some cases shown to be even more effective than a reminder of the threat of a punishment. In field experiments, subjects paid a higher price for a newspaper (Pruckner and Sausgruber, 2013^[24]) and were more likely to pay back a debt (Bursztyn, 2017^[25]) when exposed to a moral reminder.

These findings are in line with the understanding that most people view themselves as moral individuals (Aquino, K. and Reed, A., 2002^[26]). Reminded of moral standards, they adjust their actions to reduce the dissonance between self-concept and behaviour. Many small acts of cheating are in fact also acts of self-cheating. The cost of this can be increased not by increasing external punishment, but by increasing the salience of intrinsic morality.

Source: (Aquino, K. and Reed, A., 2002^[26]) (Bursztyn, 2017^[25]) (Mazar N. and Ariely D., 2006^[23]) (Pruckner and Sausgruber, 2013^[24]).

Box 3.17. How to measure cheating

Cheating can be measured through experimental designs (e.g. (Ariely, 2012^[22]), or (Fischbacher U. and Föllmi-Heusi F., 2013^[27])). Before implementing or reforming innovative integrity policies aimed at reducing dishonest behaviour, a country could apply such experimental designs to measure the “cheating baseline” in an organisation or group.

On the one hand, the experiments could inform the country if there are areas where cheating is more common than in others, to focus policies on these areas. On the other hand, the baseline would offer a concrete indicator to measure whether the piloted policies had the desired impact before considering an up-scaling.

Source: (Ariely, 2012^[22]) (Fischbacher U. and Föllmi-Heusi F., 2013^[27]).

An alternative solution would be to address social dynamics in a specific directorate or unit within a Directorate in the Office of the Comptroller or another pre-identified ministry of Mexico City. The goal would be to observe whether integrity is understood in the selected group and how the group reacts to undesirable behaviour, even to small and seemingly negligible actions, since they may lead to more serious and unacceptable behaviour, creating a vicious circle. An effective reaction does not necessarily involve strict penalties. It also suggests how important it is to publicise “ethical success stories” to encourage positive dynamics in the organisation: the “good” should be more visible than the “bad” (OECD, 2017^[2]).

Mexico City could also consider implementing pilot projects to improve working environments. Experimental research suggests that creating environments that are clean and bright can, at least to some extent, inhibit corrupt behaviour. It has been shown that the mere presence of an aroma associated with cleanliness leads to increased pro-social behaviour (Liljenquist, et al, 2010^[28]). This finding could be used as an additional argument to push for cleaner offices that are more worker-friendly in selected Mexico City public organisations.

To pilot, evaluate and fine-tune such measures, it is recommended that rigorous design and impact evaluation be used, following a procedure that has been carefully designed. Guidance can be provided for the random assignment and adequate indicators identified as needed. The cost need not be significant and this can be implemented relatively easily. The United Kingdom Behavioural Insights Team has provided a guide on how to design randomised control trials (BIT, 2012^[29]). This could help policy makers in Mexico City build a stronger evidence base and can make the case for scaling up innovative interventions, with more confidence in the expected results.

3.5. Public declarations could be used as a tool to prevent corruption and increase trust in Mexico City entities and government decision making.

3.5.1. Mexico City’s current assets disclosure system could be limited to those in senior positions or occupying positions at high risk of corruption.

Mexico City uses three types of disclosure forms. These are comparable to the federal level, but the level of disclosure and scope differs. At the federal level, the requirements are more detailed, such as for instance the information publicly available about the real

value of the real property disclosed its registration number in the land registry, the area of land and building, and the institution that has delivered the diploma to the public official in question (*declarante*). Information submitted by public servants is considered to be submitted in good faith. They are liable for the accuracy of the information submitted, which needs to be updated in case of changes.

All public officials in Mexico City are required to submit the same information in their declarations of assets and interests. However, not all are required to submit the three declarations, as shown in Table 3.8. Public servants who are temporarily hired are hired under Category 8 of the payroll (public servants with a net salary less than MXN 11 298.88) and/or those who are unionised are not subject to this obligation. The obligation to submit a tax declaration is based on public servants' obligation to submit a tax revenue declaration to the Revenue Administration System (*Sistema de Administracion Tributaria*, or SAT) which is required to be submitted at the same time as the declaration of assets.

Table 3.8. Public servants subject to public disclosure requirements in Mexico City's current conflict of interest legal framework

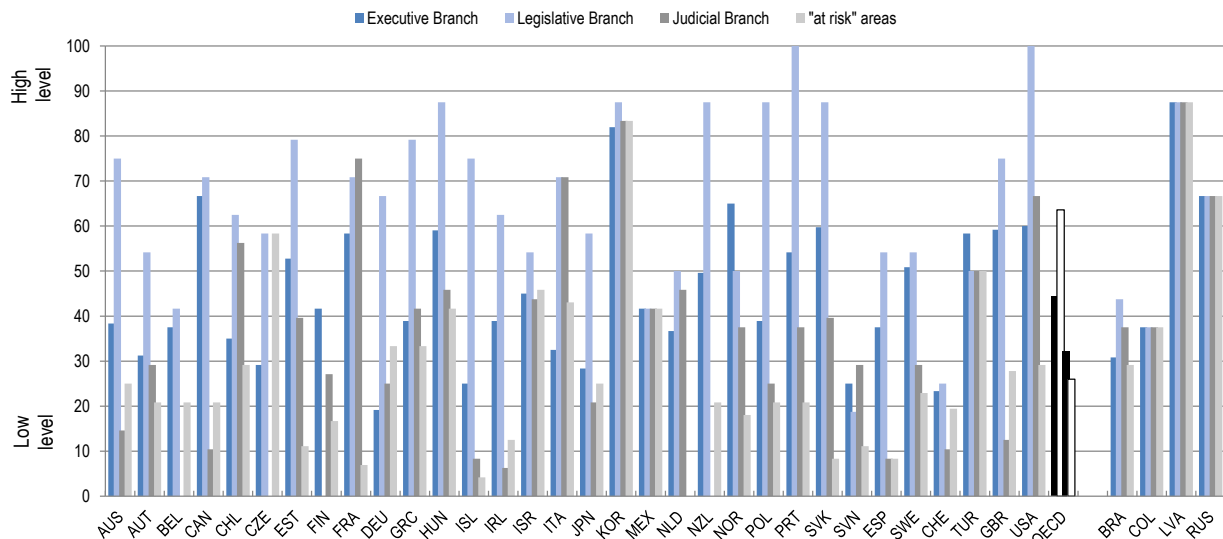
Type of public official	Declaration of assets	Declaration of interests	Declaration of tax	Declaration of no conflict
21 Heads of Mexico City ministries	X	X	X	
Heads of the 64 Deconcentrated Support and Counsel Bodies of Mexico City	X	X	X	
16 Chief of territorial demarcations (<i>delegaciones</i>)	X	X	X	
Public servants who occupy a position within a public organisation, known as "of structure" (<i>de estructura y homólogos por funciones, ingresos o contraprestaciones</i>), and personnel of confidence	X	X	X	
Public servants of "base" (unionised personnel) or temporary	X	X	Only if they are obliged to submit tax revenue for to the SAT	Only if they participate in the tendering process or in the resolution and formalisation of legal instruments
Individuals who provide professional services (receiving professional fees or similar)	X	X	Only if they are obliged to submit tax revenue for to the SAT	Only if they participate in the tendering process or in the resolution and formalisation of legal instruments
"Base" personnel, temporary and hired under the payroll Category 8 ("Nomina 8") (public servants with a net salary of less than MXN 11 298.88).	Only if for extraordinary reasons they participate in recruitment processes or assess the participation of persons in work, acquisitions, patrimonial regime or leasing of real estate	Only if for extraordinary reasons they participate in recruitment processes or assess the participation of persons in work, acquisitions, patrimonial regime or leasing of real estate	Only if they are obliged to submit tax revenue for to the SAT	Only if they participate in a tendering process or in the resolution and formalisation of legal instruments

Source: Author, based on information provided by the Office of the Comptroller-General.

In addition to these three declarations, a fourth is required in the case of public procurement activities: the *declaration of no conflicts of interest*. This declaration is filled out by second-line public servants who participate in tendering process, to confirm that they have no relationship with their superiors and with participants in the tendering process. It seeks to disclose any potential conflicts of interest before the procurement process and it is filed after reviewing the declaration of interests of public officials authorised to participate in this procedure. From a procedural perspective, this declaration is made through an electronic system, which produces two copies. One is provided to suppliers or services providers participating in the procurement process, and the other is kept in the procurement file for consultation. This form is submitted 24 hours before the contract award, resolution and conclusion of the contract, concession, licence and other legal instruments through an electronic system not accessible to the public. A copy of this form can be accessed, however, through a request for information. If this declaration is not complete or is false, an administrative penalty can be imposed and the public procurement procedure is suspended. However, it is not clear whether the public servants will be punished with a warning, a monetary penalty or be removed from their position.

The current disclosures of assets and interests, like the requirement of the LGRA, are far more extensive than the ones that are typically applied in OECD member countries (Figure 3.3 and Figure 3.4), since they apply to every level of public servant, with the exception of unionised personnel. The scope of this legislative framework requires that a large number of public servants be subjected to the same level of disclosure (see details in Box 3.18). Enforcing compliance will be a challenge for Mexico City authorities. Given the labour-intensive work that would be needed, this does not appear to be an effective mechanism for monitoring public servants' wealth and for detecting situations where there is a potential conflict of interest and possibilities for illicit enrichment.

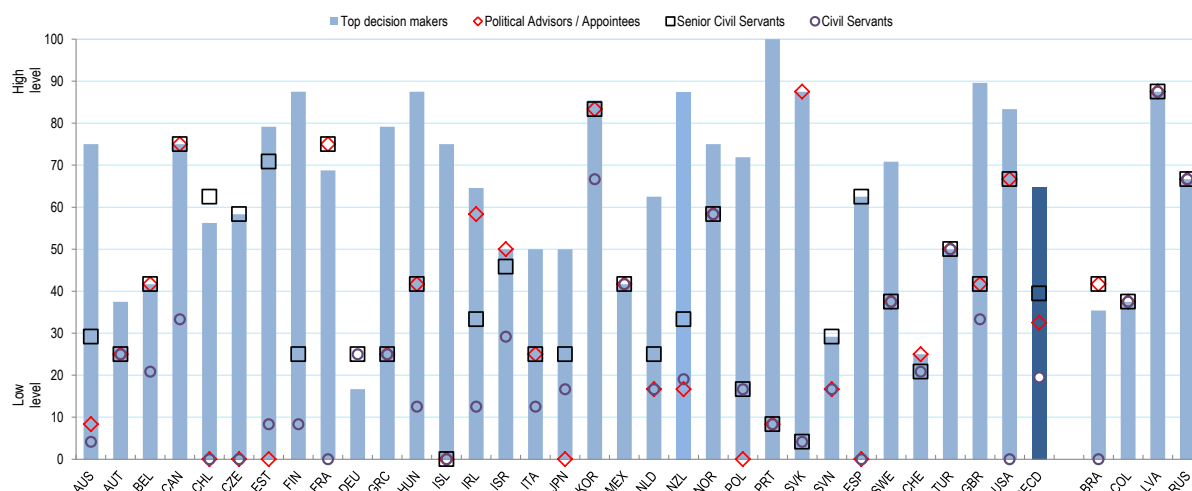
Figure 3.3. Disclosure of private interests in OECD countries, 2014



Note: Score for Mexico reflects the 2014 legislation and has not been adjusted since the new reforms setting up the National Anti-corruption System.

Source: (OECD, 2015^[30]), Government at Glance 2015, OECD Publishing, Paris.

Figure 3.4. Availability of private interests in the executive branch of government in OECD countries, 2014



Note: Score for Mexico reflects the 2014 legislation and has not been adjusted since the new reforms setting up the National Anti-corruption System.

Source: (OECD, 2015^[30]), Government at Glance 2015, OECD Publishing, Paris.

Box 3.18. Volume of public disclosure submitted by public servants in Mexico City since the implementation of the various disclosure guidelines

Since June 2016, the Office of the Comptroller-General has publicly disclosed online the public version of the three declarations submitted by their public servants, in accordance with the Articles 5 and 16 of the Protection of Personal Data Law (*Ley de Protección de Datos Personales, LPDP*) and with the criteria set out by the Supreme Court of Justice. To publicly disclose these declarations, the Office of the Comptroller-General set up a Digital Platform, namely the 3x3, through which public servants submitted their asset declarations. In 2016, a total of 44 628 asset declarations, 65 179 interest declarations and 26 697 tax declarations were submitted. To ensure compliance with this obligation a total of 36 000 public servants received training on how to use the Declarations Platform.

While there is no data available on the total number of public servants in Mexico City who should submit these declarations and the number of those who have not complied with this obligation since its implementation. The Report of Activities of the Office of the Comptroller-General of 2016-2017 mentions that 7 000 public servants obtained assistance to access to the platform to comply with their disclosure obligations.

Under the Guidelines of April 2016, public declarations are to be submitted within specific deadlines. As such, public servants should submit these declarations 60 days after their recruitment, on May of each year and 30 days after the termination of their employment. Failure to submit these declarations within the deadlines may be subject to penalty, but the severity of the penalty is not clear in the current integrity framework.

While the Office of the Comptroller-General is making an effort to monitor the

enforcement of these disclosure measures, the lack of accurate data on the total number of public servants who should submit these forms and of human resources has an impact on the effectiveness of the measures. Public servants stated in interviews that one of their difficulties in implementing these mechanisms was not to have assistance and clarification on who should submit these declarations.

It must be noted, however, that the volume of declarations filed is not sufficient to evaluate the effectiveness of this disclosure programme. A more nuanced approach that addresses the relationship between outputs and outcomes is needed for an effective understanding of the successes and vulnerabilities of this programme. It would also be important to consider whether public servants apply ethical principles they have learned to specific circumstances (OECD, 2005^[31]).

Source: Based on information of the 4th Report of Government submitted by the Office of the Comptroller on October 2016, and the Report of Activities of the Office of the Comptroller-General for 2016-2017.

A level of disclosure can certainly serve as a powerful tool. It can draw attention to the abuse of public office, help prosecute public servants and instil a culture of scrutiny in the public sector. Citizens can now examine public servants' decisions in light of their declared assets and conflicts of interest (OECD, 2016^[32]). However, Mexico City needs to reassess its disclosure strategy, since it does not allow them to precisely determine when a conflict of interest arises and may recur in the future.

Various factors are problematic, such as the impossibility of properly managing the amount of information contained in these declarations, and also the potential negative impact of this policy on the morale of public servants. It also affects the possibility of recruiting or retaining top talent. The organisational culture in Mexico City public organisations presume that their officials are corrupt. This does not effectively neutralise the risk that citizens may report a conflict of interest that could have been resolved either through recusal, divestiture or using other preventing mechanisms. This raises unnecessarily doubts about the integrity of public servants and their organisations.

The LRA of Mexico City sets out that only those considered public servants under this law need submit the tax, assets and interests declarations (Article 32). The law expressly mentions that board members of state enterprises, those working in public entities whose statutory laws do not consider these individuals as public servants, and board members of Mexico public administration entities that exercise a commercial activity and are hired as advisers, are not obliged to submit these assets and interest declarations. While this policy decision could help reduce the total number of officials obliged to submit these declarations, Mexico City could consider setting a common criteria, such as the one used in such countries as United States, Estonia, Lithuania and Ukraine (OECD, 2011^[33]) or Argentina (OECD, 2017^[34]). Mexico City could identify which public servants' declarations of assets and interests will be publicly available based on the following suggested criteria:

- based on the hierarchy within the executive (for example, all officials at the director level and above)
- based on their position (minister, deputy minister, director and so on)
- based on the duties and functions they exercise (administrative decision making, granting contracts, public procurement, tax inspection, etc.)

- based on the risk of corruption of the activities in which they are involved (filers based upon their role and the risk they could become involved in corrupt activity involving building licences, infrastructure contracts, customs, etc.)
- based on the fact that they are classified as a politically exposed person (PEP), according to the Financial Action Task Force on Money Laundering.

As for the availability of the information submitted by public servants, these assets and interests declarations have until now been made public only if the public official agrees that they may be at the time of filling out the form, using the Digital Platform. This has a direct impact on the level of transparency and on the management of public disclosure, as it is not possible to obtain an exact record of who has complied with this disclosure obligation.

Mexico City's LRA does not provide a general description of the specific information that should be publicly disclosed in the asset and interest declarations, but it delegates authority for establishing the content and design of the declarations forms (paper and electronic version) to the SLAC-CDMX Co-ordination Committee. The committee's discretion should be exercised in accordance within the limits of access and privacy laws on protected personal information, to protect public servants' privacy rights.

Future members of the SLAC-CDMX Co-ordination Committee could consider the basis for the determination of Mexico's Supreme Court of Justice (*Suprema Corte de Justicia de la Nación*) in Sections 29, 34 and 48 of the LGRA, which refer to public disclosure of declarations of assets and interests. The formats of these declarations as well as the manuals and guidelines intended to ensure their timely submission could be reviewed in order to arrive at a decision on the use of personal information. This would need to balance expectations concerning the public declarations and the implementation of risk-based verifications and audits, in order to maximise their use for building greater trust in government, and to prevent and resolve conflicts of interest when they arise.

If the Co-ordination Committee opts for the same level of disclosure as at the federal level, and if it complies with rules set out in the Transparency and Access to Information and Accountability Law of Mexico City and the Protection Privacy Data Law, the scope of information publicly available would be in line with the information that is made public in various OECD countries (Box 3.19).

Box 3.19. Common financial and non-financial disclosures in OECD countries

Generally, the following types of information are required to be disclosed in OECD member and partner countries. As in Mexico, these can include financial and non-financial interests:

Financial interests

Reporting of financial interests can allow for the accumulation of wealth over time and the detection of illicit enrichment. Financial information can also help to identify conflict of interest situations.

- **Income:** Officials in OECD countries are commonly asked to report income amounts as well as the source and type (i.e. salaries, fees, interest, dividends, revenue from sale or lease of property, inheritance, hospitality, travel paid,

etc.). The exact requirements of income reporting may vary and public officials may only be required to report income above a certain threshold. The rationale for disclosing income is to indicate potential sources of undue influence (i.e. such as from outside employment) as well as to monitor increases in income that could stem from illicit enrichment. In countries where public officials' salaries are low, this is of particular concern.

- **Gifts:** Gifts can be considered a type of income or assets. However, since they are generally only of minor value, countries generally only require reporting gifts above a certain threshold.
- **Assets:** A wide variety of assets are subject to declaration in OECD countries, including savings, shareholdings and other securities, property, real estate, savings, vehicles/vessels, valuable antiques and art, etc. Reporting of assets allows for comparison with income data, to assess whether changes in wealth are due to declared legitimate income. However, accurately reporting on the value of assets can be a challenge in some circumstances and difficult to validate. Some countries make a distinction between owned assets and those in use (i.e. such as a house or lodging that has been lent but is not owned).
- **Other financial interests:** In addition to income, gifts and assets, additional financial interests to declare often include: debts, loans, guarantees, insurances, agreements that may result in future income, and pension schemes. When such interests have significant value, they can potentially lead to conflicts of interest.

Non-financial interests

While non-financial interests may not contribute to monitoring for illicit enrichment, they can nonetheless also lead to conflicts of interest. Many countries request disclosure of:

- **previous employment:** relationships or information acquired from past employment could unduly influence public officials' duties in their current post. For instance, if an official's previous firm applied to a public procurement tender where the public official had a say in the process, the past position could be considered a conflict of interest.
- **current non-remunerated positions:** board or foundation membership or active membership in political party activities could similarly affect public officials' duties. Even voluntary work could be considered to influence duties in certain situations.

Source: (OECD, 2011^[33]), *Asset Declarations for Public Officials: A Tool to Prevent Corruption*, OECD Publishing, Paris.

3.5.2. Mexico City could consider adopting an integrity policy that recognises other situations that could lead to an integrity breach.

In the current Mexico City integrity framework, most of public servants' financial interests are disclosed in the assets declaration. However, other information related to sensitive areas can also lead to conflicts of interest, such as gifts reported and considered acceptable, recusal mechanisms implemented to ensure the integrity of the decision

process in a government organisation, outside activities, and other mechanisms used in OECD countries to properly manage conflicts of interest that are not currently declared or publicly disclosed.

The subject of gifts was raised in interviews with public officials. The answers they gave about current practice revealed the lack of clarity of the applicable rules and the officials' scepticism, and even cynicism, on this subject. Gift rules set out in the LFRSP on the responsibilities of public servants, which expired 18 July 2017, established that a public official is prohibited from receiving and accepting gifts worth more than the cumulative threshold of ten times the minimal legal wage in Mexico City at the time of its reception. While violation of this rule constitutes bribery and is punished under the criminal code under the law, public officials ignore this and do not disclose gifts received, even when they could potentially leave the public official in a conflict of interest.

The LGRA and the LRA of Mexico City prohibits gifts only if they are obtained as a result of the use of public position, duties and functions that constitutes a conflict of interest (Articles 7, Clause II and 52 for both laws), which is a serious offence. If public servants receive unsolicited gifts due to their position, they should inform the internal control units or the Office of the Comptroller and must forfeit them to the authorities in charge of administering and disposing of public assets (Article 40). As noted, the new gift policy requires that public servants read various provisions of the law to understand the applicable rules. Mexico City thus needs to enhance efforts to clarify the rules and raise awareness among its public servants, to ensure that they are all aware of the new gift rules. They also need to receive proper guidance on receiving gifts in the context of the exercise of their official duties and functions. Training and awareness-raising campaigns should also be carried out to familiarise officials with the new rules and encourage disclosure. Policy guidelines and other mechanisms can also be printed as an auxiliary way of assisting public servants to determine the acceptability of gifts and remind them of the importance of disclosing them in a timely fashion, as is done in OECD countries like Germany and Canada.

The implementation of this new proposed gift policy will require an extraordinary effort to impress upon officials that they must disclose gifts to authorities to ensure that they will not be placed in situations that involve a conflict of interest.

To ensure transparency on the issue of the disposal of gifts forfeited, Mexico City could also consider publicly disclosing reported gifts that are not prohibited, using the Digital Platform. The OECD standards for reporting gifts (Box 3.20) could be considered to resolve any potential conflict of interest that could arise as a result of receiving gifts, or prevent them from arising at all. The information in this public declaration will be useful for internal control bodies to identify real conflicts of interest.

Box 3.20. Gifts for Officials – Generic Law**Definitions**

“**Current market value**”, of a gift, means the real market value of the gift on the day it is received.

“**Gift**” includes:

- a) a gift of entertainment, hospitality, travel or other form of benefit of significant value;
- b) a gift of any item of property of significant value, whether of a consumable nature or otherwise, including, for example, a display item, watch, clocks, book, furniture, figurine, work of art, jewellery, equipment, clothing, wine/spirits, or personal item containing precious metal or stones.

Meaning of “reportable gift”

1. A “reportable gift” is:

- any gift made to an official by an organisation, agency or private sector entity;
- any gift made to an official by a private individual;
- where the current market value of the gift exceeds the “reportable gift threshold”.*

*Amount of limit to be selected according to policy intention, as determined by regulation.

2. A gift received by an official from a relative, personal friend or family member in a private capacity and in accordance with normal social custom (such as at a birthday, marriage, religious festival, etc.), or a gift from any source in recognition of service, professional achievement or retirement), is not a reportable gift. This does not limit the operation of the code of ethics of a public body, to the extent the code provides for reporting a gift of a value less than the reportable gift threshold.

3. Where an official receives more than one gift from the same person in any financial year, and the current market value of all the gifts so received exceeds the reportable gift threshold applicable at the end of the year, each of the gifts so received are reportable gifts.

4. If an agency makes more than one gift to the same official, etc. in a financial year, and the current market value of all gifts exceeds the reportable gift threshold, each of the gifts so received are reportable gifts.

Reportable gifts to be dealt with as a physical or material asset:

5. A reportable gift received by the official must be considered an accountable asset of the public body.

6. A public body may dispose of reportable gifts, after registration, as it sees fit.

Reportable gifts to be declared and accounted for:

7. An official who receives a reportable gift must complete a declaration:

- within 14 days after the gift becomes a reportable gift because it exceeds the “reportable gift threshold”, or
- for another reportable gift within 14 days after receiving the gift.

8. In the case of reportable gifts, the official must, as soon as practicable:

- transfer the gift into the control of the official’s public body; and by consent, may.
- pay the body:
 - for gifts that are reportable gifts because they exceed the threshold, an amount equal to the difference between the total current market value of the gifts and the reportable gift threshold for each gift, or
 - for any other reportable gift, an amount equal to the difference between the current market value of the gift and the reportable gift threshold.

9. Paragraph 1 above does not limit the operation of the code of ethics of a public body, to the extent the code provides for reporting the receipt of a reportable gift within a period of less than 14 days.

Register of reportable gifts

10. The public body must keep a register of reportable gifts received by any of its officials.

11. The register must include information about each of the following matters:

- the date the reportable gift was received by the official;
- the persons and circumstances involved in making and receiving the gift;
- a detailed description of the gift, including its current market value and the basis for the valuation;
- the approval for receiving the gift, if relevant;
- the date the gift was transferred to the control of the body and the present location of the gift, or
- if the official is permitted to retain the gift:
 - the date and amount of the payment made under paragraph 8(b), for the gift.
- If the gift is disposed of:
 - the authority for disposal;
 - the date and method of disposal;
 - the name and location of the beneficiary;
 - the proceeds, if any, arising from the disposal.

Source: (OECD, 2005^[35]), *Managing Conflict of Interest in the Public Sector: A Toolkit*, OECD Publishing, Paris.

A fundamental aspect that needs to be considered when implementing this proposed gift policy is that a clear distinction should be made between the declaration form and the rationale of the gift policy. Mexico City should keep in mind that an effective preventing measure is more than the simple disclosure of traditional sources of influence, such as receipt of gifts or hospitalities offered to public servants, and should have the public interest at the centre of all its activities. Public declarations are the only mechanism for disclosing a predetermined set of financial and non-financial information that could constitute a (real or apparent) conflict of interest or that could lead to a (potential) conflict of interest in future. The purpose of conflict of interest policies is to ensure that public servants proactively report and resolve issues as they arise.

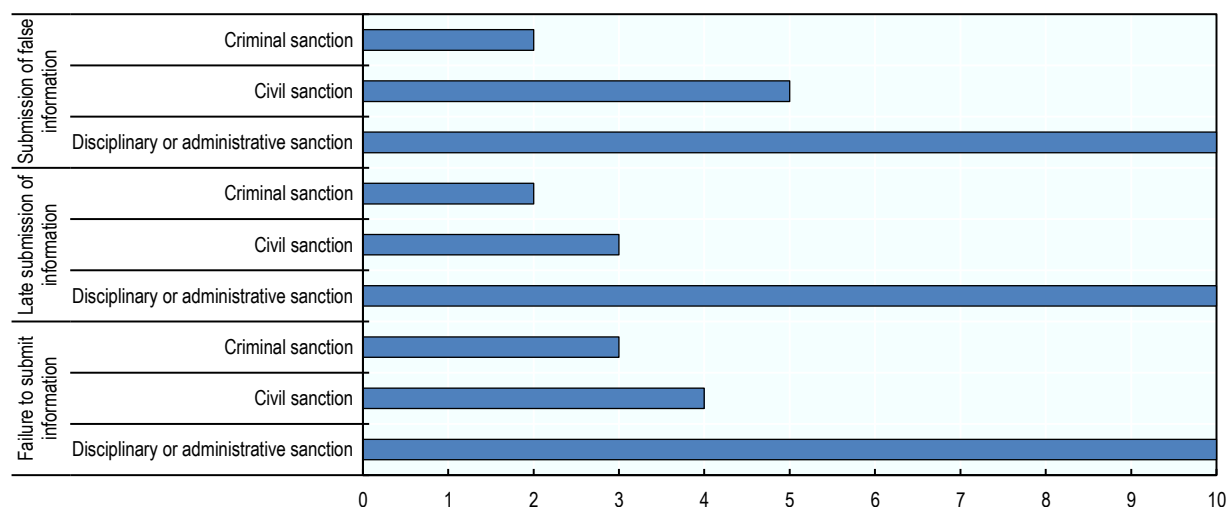
A similar strategy could be introduced to disclose recusal, offers of employment received in the context of the exercise of a public servant's duty and functions, as well as outside activities that could constitute a conflict of interest.

3.5.3. Failure to comply with the obligation to disclose assets and interest should be actively punished, to guarantee public servants' adherence to the Local Anti-corruption System.

Penalties are essential to guarantee compliance with the requirements of submitting assets and interests declarations (OECD, 2011^[33]) but they are not sufficient. While different types of penalties can be a powerful mechanism for discouraging public servants from dishonest conduct, countries should evaluate what penalties should be imposed for delay in submitting these declarations, failing to submit such declarations or providing false information in the declarations submitted.

Depending on the severity of the infraction, the penalty might range from criminal penalty, administrative penalty, disciplinary penalty and civil liability, to softer measures, such as warnings, public announcements or apologies. In most OECD countries, penalties are administrative or disciplinary and are imposed for failure to fulfil duties related to the declarations. This could involve failing to comply with the submission process (failure to submit the declaration, or late submission) or to provide the information requested (incomplete statement of required information, inadvertently false statement, intentional false statement) (see Figure 3.5).

Figure 3.5. Penalties for public officials for violations of the disclosure requirement in 10 G20 countries



Note: Data refers to penalties in place in Australia, Canada, France, Italy, Japan, Korea, Mexico, Turkey, the United Kingdom and the United States.

Source: G20 Working Group (2014), “Good practices in asset disclosure systems in G20 Countries”. — (OECD, 2017_[10]), *OECD Integrity Review of Colombia*, OECD Publishing, Paris.

The current legislative framework in Mexico City does not clearly set out the applicable penalties for not submitting the assets and interest declarations, submitting them late or for submitting false information (see section 3.2.6 on penalties). Failure to submit assets and interests declarations can be either a serious or a less serious offence that could result in a warning, reprimand, suspension, disqualification and dismissal or in both penalties, as the current integrity system does not make such distinction. It is not clear whether an economic penalty could be imposed under the current integrity framework, as none of the guidelines include specific reference to this. This will change with passage of the proposed bill of the LRA of Mexico City. This would consider failure to submit assets and interests declarations in time as a less serious offence. It would be considered a serious offence if these declarations contain untruthful information intended to hide a conflict of interest or an unjustified increase of assets or use of goods and services. While these penalties are similar to the ones set for the federal level, in most OECD countries, failure to submit these declarations in a timely fashion can result in administrative penalties or fines. This appears to be an effective way of ensuring compliance, and is used in such countries as Canada and France.

The LRA of Mexico City stipulates that the Office of the Comptroller and internal control bodies will perform verifications of declarations of assets, interests and tax in a random manner, which will be available under the Digital Platform to certify that disclosures were made (Article 30). If these declarations are not submitted, internal control bodies and the Office of the Comptroller-General will launch the appropriate investigation. They will also examine whether a conflict of interest exists or is likely to arise based on the information submitted. The Office of the Comptroller-General may sign, for this purpose, agreements with government entities that hold information submitted. To ensure the effectiveness of these examinations, the Office of the Comptroller could consider signing

agreements with the private sector, such as banks and other financial institutions, to verify the information submitted.

While this mechanism could be helpful to ensure high-quality verification process, the Office of the Comptroller-General could also suggest to the Co-ordination Committee that a set of guidelines for all internal control bodies be adopted to guarantee uniformity in the examination process. Moreover, Mexico City could leverage the electronic platform to facilitate compliance and allow automatic validation of receipt of these declarations, triangulation with other existing databases (if linked), and the automatic notification of “red flags” (for mistakes, missing information, major changes in assets or income, etc.) as suggested in (Table 3.9).

Table 3.9. Types of verification checks on asset and interest declarations

Type of verification check	Description
Basic/preliminary verification	Ensures whether declarations are complete or whether there are obvious mistakes (i.e. numerical values entered, valid addresses, etc.)
Simple verification	Ensures the logical consistency of the information provided on the declaration forms (i.e. arithmetical checks, checks against past years or modifications, and checks that assets are accounted for by declared income). Simple verifications can therefore spot potential or real conflicts of interest and can lead to audits.
Audit verification	This most advanced stage of verification may not only cross-check information from past declarations but also against “external” data sources from financial or other public institutions. An auditor may validate the existence/value of assets, assess lifestyle, as well as request proof and testimonies from public officials and other persons.

Source: (OECD, 2017^[2]), *OECD Integrity Review of Mexico: Taking a Stronger Stance Against Corruption*, OECD Public Governance Reviews, OECD Publishing, Paris.

To improve the performance of this disclosure mechanism, the Co-ordination Committee of Mexico City could also consider using one of the following verification checks recommended also at the federal level (OECD, 2017^[2]), which are in line with the best existing practice in OECD countries:

- ***Automatic confirmation of receipt for all declarations.*** Declaration databases should be able to indicate missing declaration forms after key deadlines, with follow-up by the Office of the Comptroller and internal control bodies. Organisations could consider automatic notifications (email, text) for failing to meet declaration deadlines and/or linking submission with other human resource management processes.
- ***Basic verifications on a random basis for a high number of declarations.*** Basic checks are relatively easy to carry out, since they can be programmed and conducted automatically. A large number of declarations could thus be verified. With random selection, the incentive is high for officials to submit complete and accurate information, since it increases the chances that the information will be verified.
- ***Simple verifications on a risk-based basis.*** Many simple verifications may also be programmed automatically, although at a later stage, they may require the intervention of a qualified investigator/auditor. As such, a lower number of declarations may be submitted to simple verification checks and a risk-based

approach could be considered. The Co-ordination Committee should therefore conduct a risk assessment, which could consider the following:

- *Definition of high-risk positions:* public procurement officials, officials in charge of granting or extending licences, permits, authorisations and concessions and ensuring public safety, as well as financial authorities, can be considered at greater risk. Senior civil servants and elected officials could also be at high risk. The Co-ordination Committee may wish to establish a specified list of high-risk positions for internal control bodies.
- *Analysis of complaints from citizens and other officials:* the Co-ordination Committee, the Office of the Comptroller and internal control bodies may wish to assess and study complaints received, to identify ministries, sectors, regions and officials subject to high risk that could warrant verification checks.
- *Risks identified from the declarations themselves:* the Co-ordination Committee may wish to establish automatic verification checks for declarations that present certain trends, such as late submissions, increases in wealth, major outside interests, inconsistencies between declarations, etc. Information and communications technology (ICT) systems can be programmed to automatically detect such “red flags”, and can be pre-programmed by internal control bodies.

Finally, to ensure the effectiveness of the whole disclosure policy, the Office of the Comptroller and internal control bodies could adopt a risk-based approach to using verification and leverage digital tools to the fullest extent possible, to effectively detect illicit enrichment or not resolving conflicts of interest. Thus, the Office of the Comptroller and internal control bodies should keep track of public servants’ disclosures under their responsibilities, informing the Executive Secretariat of the SLAC-CDMX, which will oversee the Digital Platform.

3.6. Ensuring effective monitoring and evaluation of integrity policies in Mexico City to promote high standards of conduct across its public organisations

3.6.1. Surveys, reviews of the guidance provided for the new Ethics Code and statistical data on penalties imposed could enhance monitoring and evaluation.

Monitoring the implementation of policies to adopt high standards of conduct rather than merely examining the existence of these policies ensures that commitment to integrity is followed by action. Information about measures undertaken by different institutions or levels of government should be reported back, so they can be centrally overseen, shared and improved (OECD, 2017^[10]). Carefully conducted, evaluation can identify the impact of the effective implementation of integrity policies.

Active monitoring can entail specific initiatives to (OECD, 2011^[33]):

- count and analyse violations of the Code (e.g. analysis of disciplinary actions) and trends thereof;
- measure the awareness of civil servants (e.g. with the help of opinion surveys, including after training events); and

- measure opinion of clients of civil servants – usually also with the help of opinion surveys.

Mexico City could also consider including the two following mechanisms:

- monitoring the implementation of its new ethics framework through diagnostic tools such as surveys and statistical data and reviewing how public organisations provide guidance on the code;
- defining long-term goals for selected integrity policies and undertaking baseline assessment of respective outcome indicators.

While surveys including questions on ethics are important, they are not sufficient and need to be oriented to their implementation and efficiency. Mexico City needs to evaluate the effectiveness of awareness-raising activities and training measures to promote ethical behaviour, so that it can improve their content and evaluate how effective they are.

In Mexico City, Article 34 of the *Organic Law of the Public Administration of Mexico City* stipulates that the Office of the Comptroller-General is responsible for the evaluation of the management of public administration. In this context, it submits annually a report of government detailing activities executed. While this report includes data on the number of evaluations made in various public organisations, as well as penalties imposed on public servants and ethics training offered, it does not include information on whether public servants are familiar with the current integrity rules.

The Co-ordination Committee will be in charge of designing overarching policies that require the commitment of each government entity. The Office of the Comptroller could thus propose that it will conduct both fraud and corruption-risk mapping when proposing the whole government integrity plan.

Using surveys to measure how familiar public servants are with the integrity rules can be a helpful guide to the degree of implementation of the future Ethics Code and the internalisation of values by all public servants. Poland, for example, monitors the implementation of the Ethics Code using an employee survey (Box 3.21).

Box 3.21. Monitoring the implementation of the Code of Ethics in Poland

In 2014, the Head of the Civil Service (HCS) commissioned a survey known as the monitoring of “Ordinance No. 70 of the Prime Minister, dated 6 October 2011, on the guidelines for compliance with the rules of the civil service and on the principles of the civil service code of ethics”. The HCS is the central government administration body in charge of civil service issues under the Chancellery of the Prime Minister.

The survey was given to three groups of respondents:

1) Members of the civil service corps

In this case, the survey pertained, on the one hand, to the degree of implementation of the ordinance in their respective offices and, on the other hand, to their subjective assessment of the operation and of the effectiveness of the ordinance. The members of the civil service corps were asked to complete a survey containing 16 questions (most framed as closed questions, with a few allowing for comments). The questions pertained to the following issues, among others:

- knowledge of the principles enumerated in the Ordinance;
- impact of the entry into force of the Ordinance on changes in the civil service;
- the need to/the advisability of expanding the list through the addition of new rules;
- comprehensibility/clarity of the guidelines and principles laid down in the Ordinance;
- the usefulness of the Ordinance for the purposes of resolving professional dilemmas.

In addition, the correct understanding of the principle of “selflessness” and “dignified conduct”, as well as the need to provide training in the field of compliance, were also assessed. The surveys were available on the website of the Civil Service Department. The respondents were asked to respond and submit the survey electronically to a dedicated e-mail address.

2) Directors General, directors of treasury offices and directors of tax audit offices

In this case, the survey was intended to verify the scope and manner of implementation of tasks which they were required to perform under the provisions of the ordinance, including, for example:

- the manner in which compliance with the rules in the given office is ensured;
- information on whether the applicable principles were complied with when adopting decisions authorising members of the civil service corps to undertake additional employment or authorising a civil service employee occupying a higher position within the civil service to undertake income-generating activities;
- the manner in which the principles in question are taken into account in the human resources management programmes being developed;
- the manner in which the relevant principles were taken into account in the course of determining the scope of the preparatory service stage.

3) Independent experts – public administration theorists and practitioners

In this case, the survey was intended to obtain an additional, independent specialist evaluation of the execution of ethical regulations within the civil service, to obtain suggestions on the ethical principles applicable to the civil service and to identify the aspects of the management process that might need to be supplemented or updated, clarified or emphasised to a greater extent, or even corrected or elaborated.

The response rate differed across the three groups. The HCS received 1 291 surveys completed by members of the civil service corps (the number of surveys completed represented approximately 1% of all civil service corps members), 107 surveys dedicated to the directors (that is, 100% of all directors general, directors of treasury offices and directors of tax audit offices, for a total of 98). Other surveys, completed on a voluntary basis by the head of the tax offices, and 7 replies from independent experts, or approximately 13% of all experts invited to the study, were also received. Given that this survey was the first such an exercise conducted on a large scale, information gathered could be used in further developing the integrity policy in the Polish civil service system.

Source: Adapted from a presentation by the Polish Chancellery of the Prime Minister at the OECD workshop in Bratislava, Slovakia, in 2015.

If the data obtained from these surveys shows that public servants have not yet reached a satisfactory intrinsic understanding of integrity values, further guidelines may be drafted to clarify the values and standards of conduct laid out in the code.

As for case numbers and reporting data on the penalties imposed, this information can provide insights on the effectiveness of measures to promote ethical behaviour and to prevent corruption and misconduct. While case numbers alone do not allow for inferences on a highly corrupted environment or effective reporting mechanisms, regular monitoring and evaluation of these numbers makes it possible to track changes and observe irregularities. Mexico City could consider using these tools in implementing its future Ethics Code to enhance the strategies and instil a culture of integrity.

3.6.2. To monitor Mexico City's future Ethics Code, the Executive Commission could publish clear and transparent indicators based on data collected by the General Co-ordination for Administrative Modernisation.

Performance evaluation requires a shift towards the development, monitoring and publication of key performance indicators that can help assess dimensions such as effectiveness, efficiency and timeliness (see (OECD, 2017_[10])). Mexico City could consider selecting the proposed central Ethics Unit recommended in this review to monitor and review the new Ethics Code, following the guidelines for monitoring and evaluation of the public administration of Mexico City adopted by the General Co-ordination for Administrative Modernisation (*Coordinación General de Modernización Administrativa*, or CGMA) (see Chapter 2.). The internal control units and the different directorates of the Office of the Comptroller could provide findings and data on disciplinary penalties imposed for less serious offences and report disclosures of these findings. The Superior Audit Institution of Mexico City (*Auditoría Superior de la Ciudad de Mexico*, or ASCDMX) could do the same for related findings on disciplinary penalties imposed for serious offences.

The Office of the Comptroller could also compile findings and data on the integrity policies adopted in order to generate clear and transparent indicators. These should be uploaded to the online platform Monitoreo CDMX, which could become a site for the monitoring of the future integrity system of Mexico City (see Box 3.14). These indicators need to be collected and updated on a regular basis (e.g. quarterly). They would then need to be communicated to discuss progress to the CGMA. Subsequently, they would be given to the SLAC_CDMX Executive Commission, which would develop a methodology for measuring the impact of the integrity policies. No single indicator can be useful in isolation, but rather, a set of indicators must be assessed as a whole, accompanied by contextual information. The Executive Committee could consider developing a proposal for the methodology to measure the impact of integrity policies based on the indicators elaborated. It could also consider conducting a survey on public ethics inside and outside the government, using the Polish survey as a guide.

In generating this data, the SLAC-CDMX Executive Commission should bear in mind that objective assessments (free of social desirability and cheap talk) provide the most reliable information. To obtain credible results, the questions could assess comprehension of the code of conduct by asking respondents to apply them to a specific moral dilemma.

It is recommended that the majority of indicators have quantitative targets. Exactly how many indicators should be used, and how resource-intensive they are, would depend on a balance between the need on the one hand to measure progress and on the other, the ability to devote resources to producing the data. There is no single right set of indicators.

Instead, the SLAC-CDMX Executive Commission and the government entities should weigh needs versus possibilities and come to an appropriate conclusion.

Proposals for action

To conclude, this chapter recommends that Mexico City take the following actions to strengthen its integrity framework for the public administration.

Building a normative framework to shift towards a values-based approach in Mexico City

- Mexico City could consider streamlining its current ethics rules to issue a single and comprehensive Ethics Code for promoting integrity and conflict of interest management.
- In drafting this Ethics Code, Mexico City should avoid being exhaustive and use plain language to ensure clarity on the behaviour expected of all public officials and how to integrate it effectively into their daily work.
- Mexico City could also consider streamlining its current conflict of interest rules as a complementary measure to enhance its integrity system.
- Mexico City could consider updating the existing organisational codes to ensure coherence of its integrity system.
- Mexico City could consider developing special standards for risk areas such as the law enforcement sector, political advisers and procurement officials.
- To ensure effective enforcement of integrity rules, Mexico City could set out a clear reference to applicable penalties for infractions of these rules.

Building a strong institutional framework for public ethics and conflict of interest to ensure coherence in the development and maintenance of integrity policies, training and enforcement of these rules throughout the whole Mexico City administration.

- A specific directorate in the Office of the Comptroller should be designated to ensure coherence in developing conflict of interest and ethics policies in Mexico City's public administration.
- Mexico City could establish Ethics Units in the 21 ministries to provide integrity advice and counsel in a coherent and timely manner.
- Strong strategic human resources management could help to promote and ensure implementation of an effective integrity strategy in Mexico City's public organisations, and also to restore public trust in the effectiveness of the integrity framework.
- Mexico could consider improving the Integrated and Preventing Evaluation (EPI) to ensure that public service integrity values be mainstreamed in all human resources and management processes.

Building a strong integrity culture in Mexico City's public entities by raising awareness of ethics and conflict of interest issues among its public servants.

- Mexico City could launch an awareness-raising campaign co-ordinated by the proposed Ethics Unit, the Integrity Contact Points (or persons) and human resources representatives from public organisations, and could also reach out to the private sector, civil society organisations and citizens.
- Mexico City could consider that the Ethics Units to be created in the Office of the Comptroller implement awareness-raising campaign training programmes based on the results of a survey on training needs. Training could be offered on an annual basis to ensure that the subjects discussed reflect the particular needs of each of its public organisations.
- Mexico City could consider using e-learning tools to raise awareness of the new ethics framework adopted for the Local Anti-corruption System. This could help ensure a high participation of public servants in recognising, managing and resolving conflicts of interest and ethics dilemmas.
- Mexico City could also consider piloting mechanisms based on insights from research in behavioural sciences and consider scaling up successful interventions to build a strong integrity culture.

Maximising the use of the three public declarations as a tool for reducing corruption and enhancing trust in Mexico City entities and government decision-making processes:

- Since July 2015, Mexico City's current assets disclosure system requires that the majority of public servants submit an asset declaration. However, a culture of mistrust remains. To improve the effectiveness of the system, the number of public servants required to submit the three declarations could be narrowed down to public servants in senior positions or those occupying high-risk position.
- Mexico City could consider adopting an integrity policy that recognises other situations that could lead to integrity breaches to enhance the future integrity system.
- Failure to comply with the obligation to disclose assets and interests should be effectively punished, to guarantee public servants' adherence to the Local Anti-corruption System. The electronic means through which these declarations are submitted could be leveraged to facilitate risk-based verification and automatically identify "red flags", to ensure its effectiveness.

Effective monitoring and evaluation of integrity policies could help promote high standards of conduct across Mexico City's public organisations.

- Additional tools and processes, including surveys, reviews of the guidance provided on the new Ethics Code and in-depth statistical data on the disciplinary penalties would help facilitate the effective monitoring and evaluation.
- To monitor and evaluate the implementation of the future Ethics Code and the integrity policies, the results and progress need to be published using clear and transparent indicators elaborated by the Executive Commission, based on information collected from the platform managed by the General Co-ordination for Administrative Modernisation of Mexico City.

Note

¹ During the preparation of this Review, the Administrative Office was in charge of human resources management (HRM) of the Government of Mexico City. As of 1 February 2017, it is the responsibility of the Ministry of Finance, in accordance with the Decree amending and adding provisions of the Organic Law of the Public Administration of the Federal District. Consequently, in this Review, all references to the Administrative Office in relation to HRM are understood to be under the jurisdiction of the Ministry of Finance. The decree can be viewed at: www.ssp.df.gob.mx/TransparenciaSSP/sitio_sspdf/art_14/fraccion_i/normatividad_aplicable/39.3.pdf.

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Chapter 4. Creating an open organisational culture in the public sector in Mexico City

There is a general consensus among policy makers that an open organisational culture is needed to promote integrity, encourage transparency and detect misconduct. An open organisational culture empowers employees to voice their concerns and to feel comfortable to discuss ethical dilemmas, integrity concerns or errors freely. This allows public officials to feel comfortable to report misconduct. This chapter proposes a set of actions for consideration to create an open organisational culture in the public sector entities in Mexico City. In addition, this chapter recommends that Mexico City enact a dedicated whistle-blower protection law to encourage public officials to report misconduct.

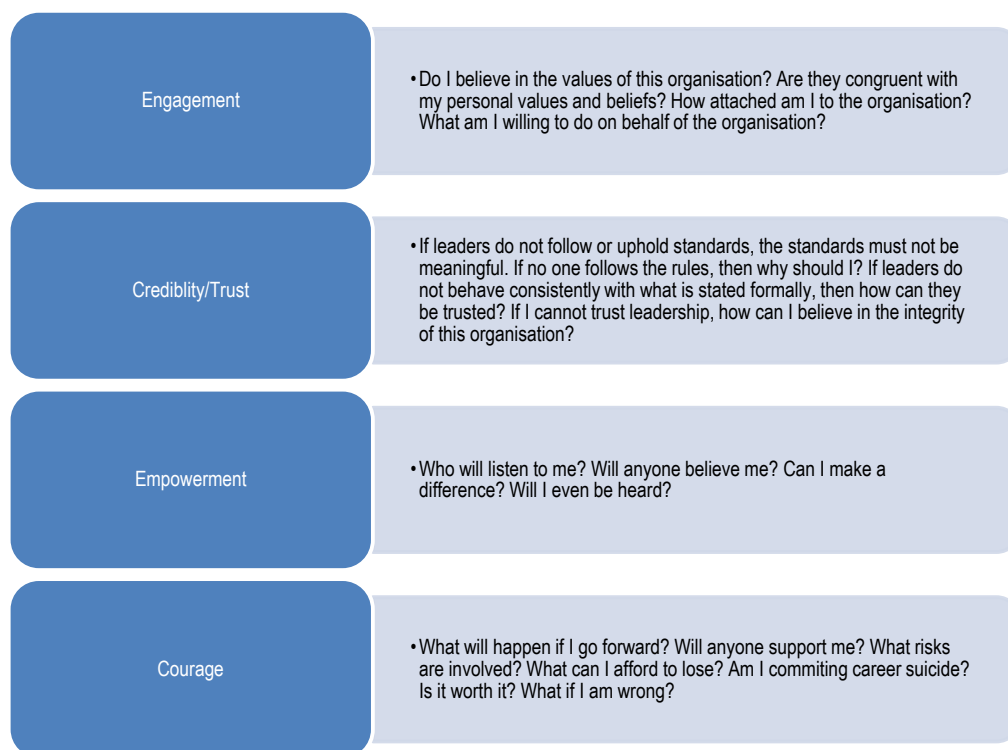
The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

4.1. Introduction

A key component of a culture of integrity in the public sector is the development and promotion of an open organisational culture. An open organisational culture engages employees and helps them develop and improve their work environment. Moreover, it is one in which employees see their ideas being acted upon. In turn, open communication and commitment to organisational values by management creates a safe and encouraging environment where employees can voice their opinions, and feel comfortable freely discussing ethical dilemmas, integrity concerns and errors.

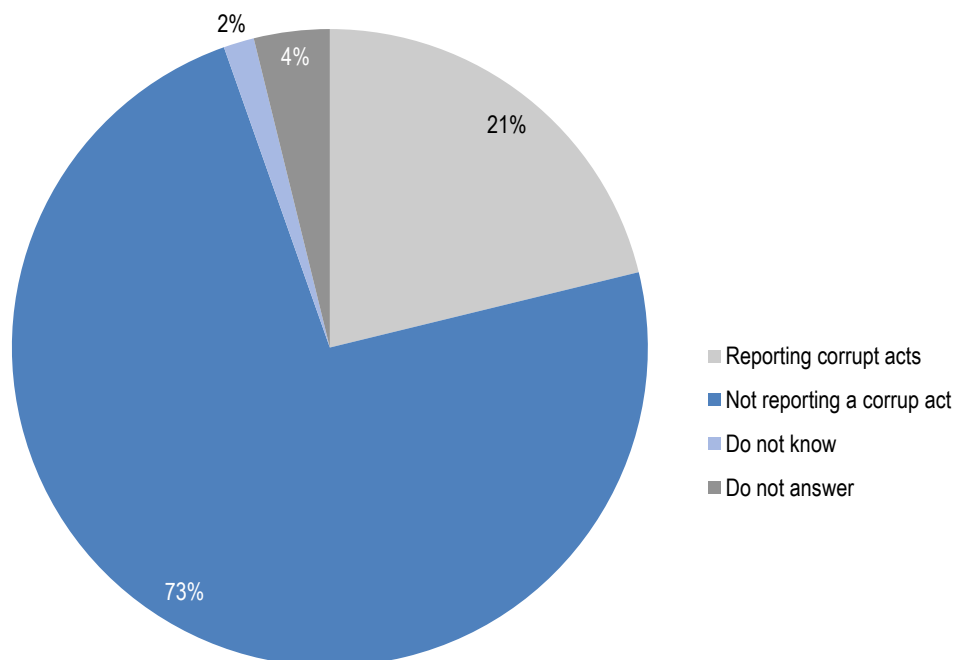
Creating an open organisational culture has three main benefits: Firstly, it can build trust in the organisation. Secondly, it can cultivate pride of ownership and motivation, which increases efficiency (Martins and Terblanche, 2003^[1]). Thirdly, in such cultures, problems can be addressed before they become potentially damaging risks and the perception of informing on other people, in discussing integrity concerns, is reduced. However, even in the most open organisational cultures, employees do not always feel comfortable enough to report integrity violations. A clear whistle-blowing policy and legal framework is crucial to enable employees to report suspected violations of integrity standards as a last port of call.

Measures supporting an open organisational culture responsive to integrity operate on several dimensions: engagement, credibility/trust, empowerment and courage (Figure 4.1). These can be addressed by organisational measures encouraging an open-door culture, by promoting trust and by setting the right example from top management. Whistle-blower protection legislation with clear guidance on reporting procedures and criteria for investigation can facilitate the reporting of misconduct, fraud and corruption. The right combination of all these measures promotes a culture of accountability and integrity.

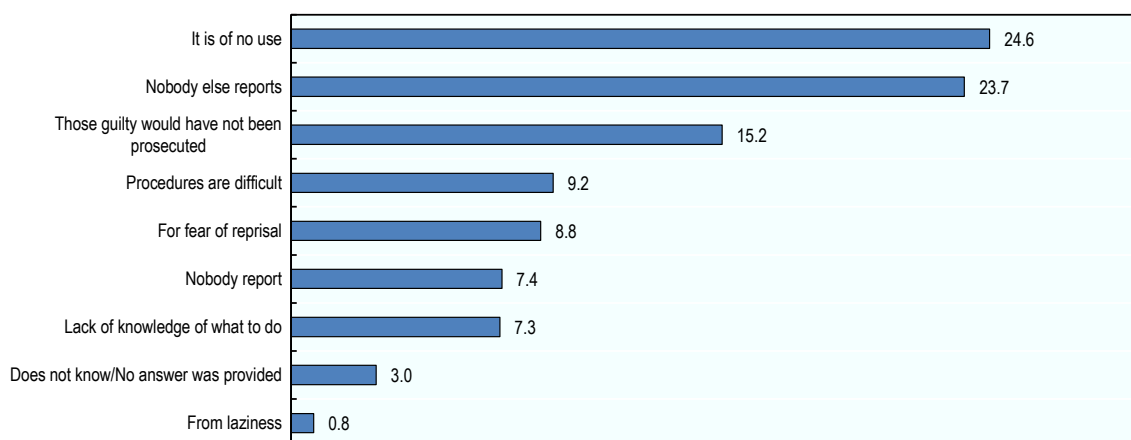
Figure 4.1. Dimensions of an open organisational culture

Source: Adapted from (Berry, 2004^[2]): “Organizational culture: A Framework and Strategies for Facilitating Employee Whistle-blowing”, *Employee Responsibilities and Rights Journal*, Vol. 16/1, pp. 1-12.

In Mexico City, 95% of citizens think of corruption as a frequent occurrence (INEGI (Instituto Nacional de Estadística y Geografía), 2015^[3]). Given this high perception of corruption across all levels of government, it can be assumed that public officials and citizens alike do not feel confident to report corruption or other integrity violations, for fear of reprisal and the assumption that their reports will not be followed up. Indeed, only 21% of Mexicans reported acts of corruption in the past year (Figure 4.2). The main reason for not reporting acts of corruption in Mexico City and the state of Mexico is that, as survey participants report, it “is of no use” (24.6%), followed by a sense that they do not have the proof to confirm these acts (23.7%). In addition, many individuals dare not speak up out of fear and threats of reprisal (Figure 4.3). Interviews conducted for this Integrity Review show a similar picture throughout the public service in Mexico City, which show that the government entities’ degree of openness is limited.

Figure 4.2. Percentage of victims who report corruption

Source: (Marván Laborde, 2015^[41]), *La corrupción en México: Percepción, prácticas y sentido ético, Encuesta Nacional de Corrupción y Cultura de la Legalidad*, Colección Los mexicanos vistos por sí mismos- Los grandes temas nacionales 24, Universidad Autónoma de México (accessed 14 June 2017), p.140.

Figure 4.3. Reasons for not reporting corruption

Source: (Marván Laborde, 2015^[41]), *La corrupción en México: Percepción, prácticas y sentido ético, Encuesta Nacional de Corrupción y Cultura de la Legalidad*, Colección Los mexicanos vistos por sí mismos- Los grandes temas nacionales 24, Universidad Autónoma de México, <http://www.losmexicanos.unam.mx/corruptcionyculturadelalegalidad/libro/index.html> (accessed 14 June 2017), p. 140.

4.2. Encouraging an open organisational culture

4.2.1. To ensure that senior management act as role models, integrity could be included as a performance indicator to incentivise the application of the Code of Ethics.

Open organisational culture has a direct link to organisational vision, values and behaviour. Senior civil servants exemplify and transmit public service and organisational values. Staff compares leadership behaviour and beliefs embedded in the organisational culture with desirable behaviour under the formal policies and procedures. By translating the values in the code of conduct and acting accordingly, the leadership builds credibility in the norms and standards. Their consistent application demonstrates the value of ethical behaviour, clarifies standards and models openness. Above all, it can build trust in the processes. If they trust in their superiors, it is more likely that employees will be confident enough to report any integrity concerns or ethical dilemmas to their managers (Brown, Treviño and Harrison, 2005^[5]).

Mexico City has not yet introduced measures to incentivise the implementation and consistent application of the code of ethics in the public administration (see Chapter 3.). It could therefore consider incorporating integrity and public ethics as a formal assessment criterion for senior management. Aligning leadership behaviour with formal policies and promoting consistent modelling of values encourages credibility. This personal commitment to organisational values strengthens trust and creates a safe environment where employees can discuss integrity concerns and report any suspected violation internally (Berry, 2004^[2]). For example, performance objectives could focus on the means as well as the ends, by asking not only if the performance objectives have been achieved, but how the public official achieved the objectives. If they are achieved by adhering to the highest standards of integrity, this should be recognised. Special recognition could be given to public officials who consistently engage in meritorious behaviour or help build a climate of integrity in their department. This might, for example, consist in identifying new processes or procedures that promote the ethics code (OECD, 2017^[6]).

4.2.2. To encourage public officials to voice their concerns about integrity, the Comptroller's Office could engage senior public officials to provide guidance, advice and counsel.

The openness of an organisation depends on the extent to which ethical issues, for example ethical dilemmas and suspicions about violations of integrity, can be discussed internally. Feeling free to discuss ethical concerns and potential wrongdoing freely means that the barriers to communication have been overcome. In organisations where a “code of silence” (Rothwell and Baldwin, 2007^[7]) prevails, employees believe that speaking up is undesirable (Near and Miceli, 1985^[8]). However, in organisations where dialogue and feedback are appreciated by management, the willingness of employees to discuss and report suspected misconduct internally is greater (Heard, E. and Miller, W., 2006^[9]). An open-door policy by management to provide advice and counsel for public servants on ethical dilemmas and potential conflicts of interest can help increase the perception that the organisation is open.

However, high staff turnover, lack of guidance and a weak tone from the top are impediments to an open organisational culture. When staff rotation is high, less importance may be placed on strong ethical standards in the workplace, because

employees are not employed long enough to apply these measures in practice. Generally, senior civil servants set the prevailing tone of an organisational culture (OECD, 2016^[10]). In Mexico City, this presents a particular challenge, given the higher turnover and the fact that fewer officials are part of the civil service regime (OECD, 2017^[11]). Longevity, continuity and institutional memory can help promote an appreciation of and collective commitment to substance, content and an ethics-oriented workplace that ensures respect of integrity every day.

In addition to advising employees on ethical challenges, management also needs to listen and act upon employees' suggestions for improving processes and reports of misconduct. Entrenched hierarchical status and wide power differentials can lead to an environment in which management neither listens to nor acts on reports of misconduct (John Cuellar and John, 2009^[12]). Ensuring that managers are responsive to employees' concerns and creating space for alternative perspectives can instil courage (Berry, 2004^[2]). To increase employees' willingness to seek advice, managers should also be instructed to acknowledge errors and to turn negatives into lessons learned for future projects. This way, employees will not be afraid to approach management with their concerns for fear of punishment.

As a result, many OECD countries focus on senior civil servants to create an open organisational culture. Guidance in the form of advice and counsel for public servants to resolve ethical dilemmas at work and potential conflict-of-interest situations can be provided by immediate hierarchical superiors and managers or dedicated individuals available either in person, over the phone, via email or through special central agencies or commissions. Similarly, guidance, advice and counselling can be provided by senior officials, as in Canada (Box 4.1.). In turn, senior officials can issue guidance on how to react in situations that are ethically challenging and can communicate the importance of these elements as a means of safeguarding public sector integrity.

In Mexico City, on-site interviews revealed an apparently closed organisational culture. Employees express a marked reluctance to report any misconduct to their superiors or to other authorities, thanks to previous bad experiences and a lack of trust. The Comptroller's Office (*Contraloría General de la Ciudad de México*) could consider engaging senior officials to promote openness and actively encourage employees to seek guidance and counselling. This could be in the form of annual performance evaluations and regular feedback throughout the year, creating a space where employees can voice grievances and concerns.

Box 4.1. Canada: Senior officials for public service values and ethics and departmental officers for conflict-of-interest and post-employment measures

Senior officials for public service values and ethics

The senior official for values and ethics supports the deputy head in ensuring that the organisation exemplifies public service values at every level of their organisations. The senior official promotes awareness, understanding and the capacity to apply the code amongst employees, and ensures that management practices support values-based leadership.

Departmental officers for conflict-of-interest and post-employment measures

Departmental officers for conflicts of interest and further employment are specialists in their respective organisations who have been identified to advise employees on the conflict-of-interest measures in Chapter 2 of the Values and Ethics Code.

Source: Treasury Board of Canada Secretariat (2012), Policy on Conflict of Interest and Post-Employment, <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25178§ion=html>.

To equip management to guide and counsel employees on work-related concerns, the General Co-ordination of Evaluation and Professional Development (*Coordinación General de Evaluación y Desarrollo Profesional*) in the Comptroller's Office could develop a specific training course for senior public officials, similar to the training course for the proposed Integrity Contact Points in Chapter 3. However, this course could go beyond providing advice on integrity concerns and ethical dilemmas. For example, in the case of the Integrity Contact Points, they could familiarise management with measures for building trust among employees to express any grievances or concerns.

4.2.3. Staff champions for openness could consult with staff on improving employee well-being, work processes and openness in order to empower and engage them.

In a closed organisation, lower-ranking employees can feel powerless, and as though they have no ability to bring about change. In fact, senior-level managers are more likely to report misconduct than lower-level managers (Keenan, 2002_[13]). To create an open organisational culture, employees must feel empowered and believe that their voices are being heard, whether in improving work processes and structures or reporting misconduct. By encouraging and valuing employees' contributions, staff will become confident in developing and improving their work environment. This can cultivate a pride of ownership and motivation, in which employees are more likely to offer more than the minimum demanded of their jobs (Berry, 2004_[2]). It is increasingly likely they will see themselves as an important part of the organisation, and accept responsibility for voicing their ideas and concerns (Stamper and Van Dyne, 2003_[14]), including speaking out against organisational misconduct. Negative experiences that communicate that the organisation does not value employee involvement or does not tolerate employee dissent will weaken employee trust. As a result, employees will feel powerless.

In interviews with public officials of Mexico City, many people confirmed that they did not feel able to change entrenched working processes and would feel reluctant to report misconduct. The risk of reprisals against them is perceived to be greater than being heard and making a positive change. In the short term, the directorates in the Comptroller's Office could elect "champions of openness", who would consult staff on measures to improve work processes, well-being and general openness. This could also identify hot spots where focused attention is needed. The "champions" of the different directorates could exchange good practices with one another. In the long term, this pilot project could be rolled out to other government entities, according to needs assessments.

4.2.4. A mentoring programme for junior public officials could guide and support employees and create an ethical management cadre.

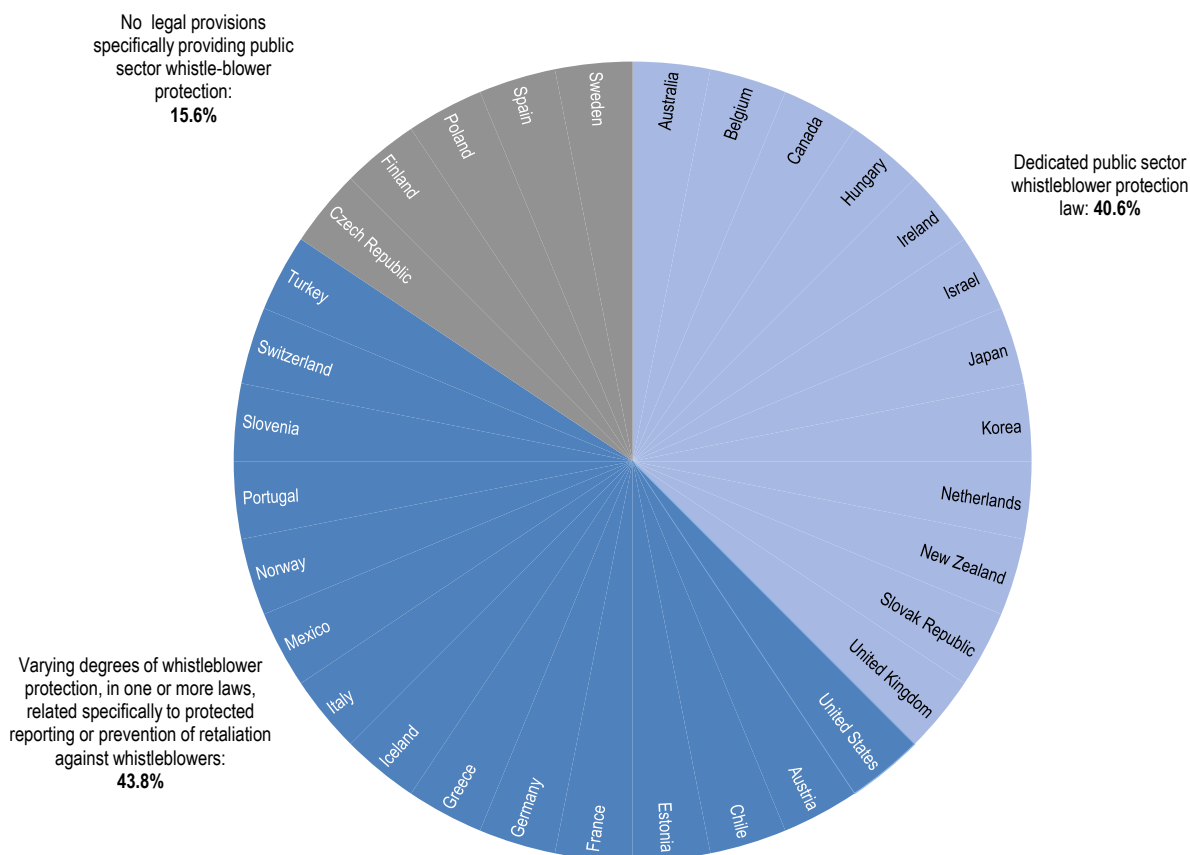
Instilling a formal mentoring programme is another measure for motivating ethical behaviour in an organisation. Senior managers are responsible for assisting public officials in junior positions who show potential for advancing to leadership positions (Shacklock and Lewis, 2007^[15]). This not only supports junior public officials, but can strengthen the senior public officials' ethical convictions and contribute to an open organisational culture in which public officials feel comfortable to report wrongdoing (OECD, 2017^[6]).

Mentors could help their colleagues to think through situations where they have recognised the potential of conflicting values. They help to identify measures to engage employees and develop ethical awareness, so that the mentee is able to anticipate and avoid ethical dilemmas. The Comptroller's Office could pilot a mentoring programme in its own ranks, before expanding it to other government entities in the public sector. Mentors' commitment could be positively assessed in performance evaluations.

4.3. Instituting a legal framework to encourage reporting and to guarantee protection for whistle-blowers

Even in very open organisations, public officials may be faced with situations in which they do not feel confident reporting integrity violations, for fear of retaliation or because the process is unclear. Establishing a clear and comprehensive whistle-blower protection framework is a safeguard for an open organisation. In Mexico City, fear of reprisals and the difficulty in following the procedures are two reasons cited for why corruption is not reported (Figure 4.2). This calls into question the effectiveness of the current protections.

In the past decade, the majority of OECD countries have introduced whistle-blower protection laws that facilitate the reporting of misconduct and protect whistle-blowers from reprisals, not only in the private sector, but especially in the public sector. In OECD countries, such protections are provided through several different laws, such as specific anti-corruption laws, competition laws or laws regulating public servants, or through a dedicated public sector whistle-blower protection law (Figure 4.4).

Figure 4.4. Legal protection for whistle-blowers in the public sector in OECD countries

Source: (OECD, 2016^[10]), *Committing to Effective Whistleblower Protection*, OECD Publishing, Paris.

Similar to the regulations at the federal level, Mexico City does not have a dedicated whistle-blower protection law, but relies on provisions in one or more laws:

- Law of Administrative Responsibilities of Mexico City (*Ley de Responsabilidades Administrativas de la Ciudad de México*, or LRA): Under Article 49, public servants have the obligation to report any misconduct as defined in the law. The article states that public officials should refrain from preventing such reporting. Furthermore, specific units receiving complaints and reports need to be established in each government entity, with the follow-up procedure clearly regulated by the entity. The complaints and reports need to include details identifying the alleged misconduct.
- Mexico's Federal Criminal Code (*Código Penal*: Article 2 191) provides that a crime of intimidation is committed when a civil servant, or a person acting on his behalf, uses physical violence or moral aggression to intimidate another person to prevent him or her from reporting, lodging a criminal complaint or providing information on the alleged criminal act.
- Mexico City's Law on Access to Information and Protection of Personal Data (*Ley de Transparencia, Acceso a la Información Pública y Rendición de Cuentas de la Ciudad de México*) protects the anonymity of whistle-blowers by classifying it as confidential (Article 186) and by classifying it as privileged information if there is a risk to the person's security (Article 183).

- Agreement A/007/03 of Mexico City’s Attorney General’s Office (*Acuerdo A/007/ del Procurador General de Justicia del Distrito Federal por el cual se establecen areas de espera exclusivas para denunciantes, victimas, ofendidos y testigos de cargo en delitos graves*): establishes dedicated waiting areas for whistle-blowers, offenders, victims and witnesses in serious crime cases.
- Agreement A/010/2002 of Mexico City’s Attorney General’s Office (*Acuerdo A/010/2002 del Procurador General de Justicia del Distrito Federal por el cual se establecen lineamientos para los Agentes del Ministerio Público en relación a los domicilios de los denunciantes, víctimas y ofendidos y testigos de cargo en delitos graves*) establishes that public prosecutors who initiate preliminary investigations for serious crimes will record victims, offenders, whistle-blowers or witnesses addresses or telephone numbers in a separate, sealed document.
- Agreement A/018/2011 of Mexico City’s Attorney General’s Office (*Acuerdo A/018/2011 del C. Procurador General de Justicia del Distrito Federal que establece el procedimiento a seguir por los Agentes del Ministerio Público investigadores para hacer saber los derechos a las personas que comparezcan ante ellos a declarar en calidad de denunciantes, querellantes, ofendidos, víctimas del delito, testigos e imputados*) instructs public prosecutors to read whistle-blowers, offenders, victims and witnesses their rights in accordance with the Bill of Rights (*carta de derechos*).
- Notice on the creation of a Personal Data System for whistle-blowers of the Environmental and Territorial Order Prosecutor’s Office (*Aviso por el que se da a conocer la creación del Sistema de Datos Personales de Denunciantes de la Procuraduría Ambiental y del Ordenamiento Territorial del Distrito Federal*): The notice creates the personal data system collecting personal data (name, address and telephone) of the whistle-blower, through which the whistle-blower can be contacted. If requested by the whistle-blower, this information will remain confidential.
- Circular OC/ 009 /2009 (*Oficio Circular OC/009/2009 por el que instruye a los Oficiales Secretarios y Agentes del Ministerio Público que integran averiguaciones previas, que informen mediante acuerdo a los denunciantes, querellantes, testigos e imputados, sobre el derecho que les asiste para presentar quejas en la Dirección General de Derechos Humanos*): all ministerial personnel are instructed to inform whistle-blowers, plaintiffs, witnesses and defendants of their right to file complaints with the General Directorate of Human Rights.

While this piecemeal approach is positive in the sense that it applies to the whole public sector, including state-owned enterprises, the extent of Mexico City’s protection can be considered limited and insufficient, as it is primarily designed to report integrity violations, with few explicit protections set out in the laws (OECD, 2017_[16]).

4.3.1. Mexico City could enact a dedicated whistle-blower protection law to avoid duplication, ensure clarity of the kind of protections applicable and to ultimately create higher confidence in the protection framework.

Overall, the recently passed LRA of Mexico City strengthens the whistle-blower protection framework by requiring the creation of reporting channels to the competent authorities, as well as within the organisations, and by guaranteeing the anonymity of those who report integrity violations. Another strength of this law is the broad definition of “whistle-blowers”. It applies to any legal or natural person or public official who reports any conduct that could constitute or be linked to an administrative fault, as

defined in the LRA of Mexico City. This clearly defines what constitutes an appropriate disclosure to the investigative authorities. In this way, public officials and the public alike have a clear guideline on what may be disclosed and under what circumstances. Moreover, the law proposes mechanisms that seek to ensure that the recipients of whistle-blower disclosures take the appropriate (investigative) action warranted by each specific disclosure, including protecting the identity of the whistle-blower and informing the whistle-blower of the outcome of the investigation, if possible. However, the law has a strong focus on the investigative process following a whistle-blower report. It does not specify the protections available to whistle-blowers and under what circumstances, which limits its clarity and reliability in its application. Rather than strengthening the current fragmented protection framework, a dedicated whistle-blower protection would ensure universally applicable protection provisions, which bring clarity and make it easier to raise awareness of the existence of these provisions (Banisar, 2011^[17]). Translating whistle-blower protection into a dedicated law legitimises and structures the mechanisms under which individuals can disclose actual or perceived wrongdoing. It also protects them against reprisals and can at the same time encourage them to come forward and report wrongdoing. For example, the whistle-blower protection law in the Canadian province of Alberta creates reporting mechanisms, details the protections available and the investigative process and details how the framework is monitored and evaluated (Box 4.2).

Box 4.2. Whistle-blower protection in Alberta, Canada

Alberta's whistle-blower protection law came into force on 1 June 2013; with the enactment of the Public Interest Disclosure (Whistle-blower Protection) Act. The goal of the legislation is to protect public sector employees from job reprisal, such as termination, if they report wrongdoing. The new law applies to the Alberta public service, provincial agencies, boards and commissions, as well as academic institutions, school boards and health organisations.

The law also creates processes for the disclosure of wrongdoing. It also provides for the Office of the Public Interest Disclosure Commissioner to investigate and resolve complaints by public sector employees who report violations of provincial or federal law, acts or omissions that create a danger to the public or environment, and gross mismanagement of public funds.

The penalty for offences under the Act is CAD 25 000 for the first conviction to a maximum of up to CAD 100 000 for subsequent offences.

Source: <https://yourvoiceprotected.ca/>.

Adopting a dedicated whistle-blower protection law would send a strong message to public servants and the general public alike that it is safe to speak up and report wrongdoing, and that reprisals against whistle-blowers are not tolerated.

4.3.2. The distinction between witness and whistle-blower protection should be clearly delineated, to ensure that disclosures that do not lead to a full investigation or to prosecution are eligible for legal protection.

There is a potential overlap between whistle-blowers and witnesses. Some whistle-blowers may possess solid evidence and eventually become witnesses in legal proceedings (Transparency International, 2013^[18]). When whistle-blowers testify during court proceedings, they can be covered under existing witness protection laws. The Mexican framework offers witness protection pursuant to Article 109 of the National Code of Criminal Procedures (*Código Único Nacional de Procedimientos Penales*), which also applies in Mexico City.

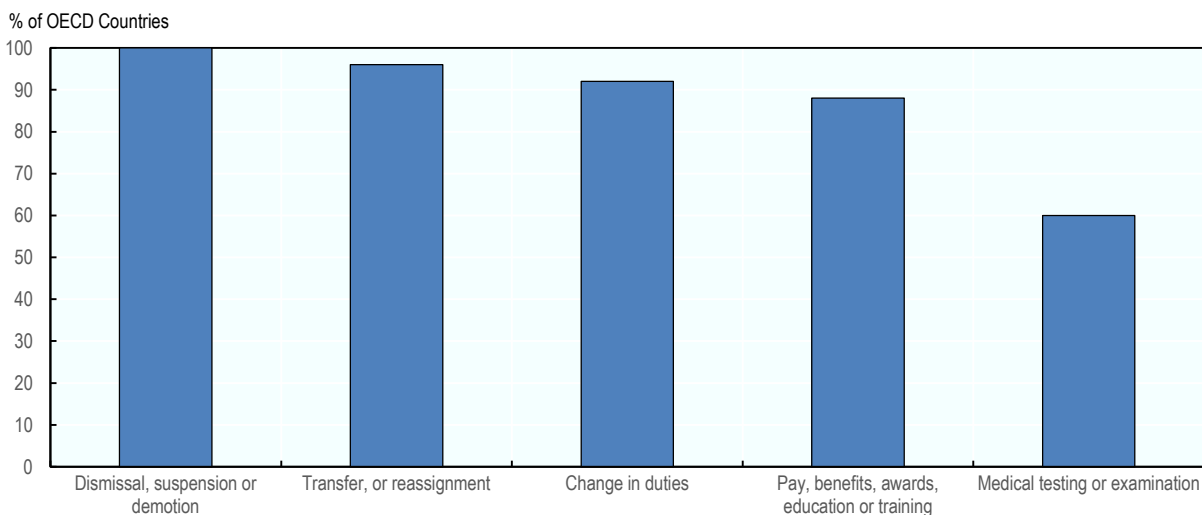
However, if the subject matter of a whistle-blower report does not result in criminal proceedings, or the whistle-blower is never called as a witness, witness protection will not be provided. Basing the eligibility for such protection on the decision to investigate disclosures and subsequently prosecute related offences reduces the certainty surrounding legal protections against reprisals. This is because such decisions are often taken on the basis of considerations that are not divulged to the public. Indeed, it may be more effective, in terms of detecting misconduct, to facilitate measures by which whistle-blowers may report relevant facts that could lead to an investigation or prosecution. Whistle-blowers will then be more likely to report relevant facts if they know they will be protected regardless of the decision to investigate or prosecute. Furthermore, whistle-blowers may face risks that are not covered by witness protection programmes, such as demotion or dismissal. In terms of remedies for retaliation, they may need compensation for salary losses and career opportunities. As such, witness protection laws are not sufficient to protect whistle-blowers (Transparency International, 2009^[19]).

A dedicated whistle-blower law or a proposal for an amended law would therefore need to modify Code of Criminal Procedures. It would need to establish protection for those disclosing information about an act of corruption that might not be recognised as a crime, but that could be subject to administrative investigations.

4.3.3. Mexico City could consider specifically prohibiting the dismissal of whistle-blowers without a cause, or any other kind of formal or informal work-related penalty in response to the disclosure.

Whistle-blowers face the risk of retaliation when exposing wrongdoing. Such retaliation usually takes the form of disciplinary action or harassment in the workplace. Whistle-blower protection frameworks should provide protection against discriminatory or retaliatory personnel action. The majority of OECD countries (Figure 4.5) provide protection for whistle-blowers from a broad range of reprisals, ranging from dismissal to medical testing and examination.

Figure 4.5. OECD countries providing protection from all discriminatory or retaliatory personnel actions



Source: (OECD, 2016^[10]), *Committing to Effective Whistle-blower Protection*, OECD Publishing, Paris.

The Administrative Responsibilities Law foresees limited protection for whistle-blowers. In addition to the protection of anonymity, public officials can request reasonable protection measures (Article 64). While this expands the previous framework, some weaknesses concerning the scope of the protection remain. The law does not detail what measures are considered to be “reasonable”. This leaves a large degree of uncertainty for a potential whistle-blower on the scope of protection available. To clarify what measures are available, Mexico City could add a non-exhaustive list of specific protective measures. Such protection should extend beyond the protection from physical harm and include protection from discriminatory or retaliatory actions. In this way, Mexico City would set a benchmark for other Mexican states. Specifically, Mexico City may consider prohibiting the dismissal without cause of public sector whistle-blowers, as well as other work-related reprisals such as demotion, suspension and harassment. For example, according to the United States’ Project on Government Oversight, typical forms of retaliation from which whistle-blowers are protected include (Project on Government Oversight, 2005^[20]):

- taking away job duties so that the employee is marginalised.
- taking away an employee’s national security clearance so that he or she is effectively fired.
- blacklisting an employee so that he or she is unable to find gainful employment.
- conducting retaliatory investigations in order to divert attention from the waste, fraud or abuse the whistle-blower is trying to expose.
- questioning a whistle-blower’s mental health, professional competence or honesty.
- setting the whistle-blower up by giving impossible assignments or seeking to entrap him or her.
- reassigning an employee geographically so he or she is unable to do the job.

Anchoring similar protections within the Mexican City legal framework will give whistle-blowers more confidence in the procedures. Similarly, Korea’s Protection of Public

Interest Whistle-blowers Act provides a comprehensive list of what disadvantageous measures whistle-blowers should be protected against, including financial or administrative disadvantages, such as the cancellation of a permit or licence, or the revocation of a contract (Box 4.3).

Box 4.3. Comprehensive protection in Korea

In Korea, the term “disadvantageous measures” means an action that falls into any of the following categories:

- removal from office, release from office, dismissal or any other unfavourable personnel action equivalent to the loss of status at work.
- disciplinary action, suspension from office, reduction in pay, demotion, restriction on promotion and any other unfair personnel actions.
- work reassignment, transfer, denial of duties and rearrangement of duties or any other personnel actions that are against the whistle-blower’s will.
- discrimination in the performance evaluation, peer review, etc. and subsequent discrimination in the payment of wages and bonuses.
- cancellation of education, training or other self-development opportunities; the restriction or removal of budget, workforce or other available resources, suspension of access to security information or classified information; cancellation of authorisation to handle security information or classified information; or any other discrimination or measure detrimental to the working conditions of the whistle-blower.
- Putting the whistle-blower’s name on a blacklist, as well as the release of such a blacklist, bullying, the use of violence and abusive language towards the whistle-blower, or any other action that causes psychological or physical harm to the whistle-blower.
- Unfair audit or inspection of the whistle-blower’s work, as well as the disclosure of the results of such an audit or inspection.
- The cancellation of a licence or permit, or any other action that causes administrative disadvantages to the whistle-blower.

Source: Korea’s Act on the Protection of Public Interest Whistle-blowers (2011), Act No. 10 472, 29 March 2011. Article 2 (6).

In addition, the law does not specify the duration of the protection available. As reprisals are not always immediate, the length of the time during which a whistle-blower is protected against reprisals needs to be regulated within the legislation and clearly communicated. In Belgium, the period for protection against reprisal is two years following the conclusion of the investigation of the report.

4.3.4. By explicitly including civil remedies for public officials who suffer reprisals after disclosing misconduct, Mexico City could add another layer of protection to the whistle-blower protection framework.

To provide more clarity on the measures available if a whistle-blower experiences reprisal after disclosing misconduct, whistle-blower protection systems include specific remedies, as opposed to leaving enforcement entirely up to enforcement authorities. This may cover all direct, indirect and future consequences of reprisal. They range from return to employment after unfair termination, job transfers or compensation, or damages if there was harm that cannot be remedied by injunctions, such as difficulty in finding a new job. Such remedies may take into account not only lost salary but also compensatory damages for suffering (Banisar, 2011^[17]). For example, Canada's Public Servants Disclosure Protection Act (PSDPA) includes a comprehensive list of remedies (Box 4.4). Moreover, the availability of effective civil remedies may help mitigate professional marginalisation of whistle-blowers by providing an opportunity for rehabilitation by civil courts (OECD, 2017^[16]).

Box 4.4. Remedies in Canada for public sector whistle-blowers

To provide an appropriate remedy to the complainant, the Tribunal may, by order, require the employer or the appropriate chief executive, or any person acting on their behalf, to take all necessary measures to:

- permit the complainant to return to his or her duties.
- reinstate the complainant or pay compensation to the complainant in lieu of reinstatement if, in the Tribunal's opinion, the relationship of trust between the parties cannot be restored.
- pay to the complainant compensation in an amount not greater than the amount that, in the Tribunal's opinion, is equivalent to the remuneration that would, but for the reprisal, have been paid to the complainant.
- rescind any measure or action, including any disciplinary action, and pay compensation to the complainant in an amount not greater than the amount that, in the Tribunal's opinion, is equivalent to any financial or other penalty imposed on the complainant.
- pay to the complainant an amount equal to any expenses and any other financial losses incurred by the complainant as a direct result of the reprisal.
- compensate the complainant, by an amount of not more than USD 10 000, for any pain and suffering that the complainant experienced as a result of the reprisal.

Source: Canada's Public Servants Disclosure Protection Act of 2005, 21.7 (1).

In Mexico City, the current framework does not provide any remedies for public officials who suffer reprisals after reporting misconduct. By explicitly stating the remedies available following retaliatory action, whistle-blowers have clearer expectations which protectionary measures are available to them. This builds trust in the system. The Administrative Justice Tribunal (*Tribunal de Justicia Administrativa*), which will be

established according to the governance structure of the Local Anti-corruption System, could take on the role of deciding over civil remedies in such cases. Such remedies could also compensate whistle-blowers for prospective revenue losses. Finally, allowing whistle-blowers to introduce their own recourse before courts, instead of relying on the availability of resources from public authorities, could reinforce public trust in the whistle-blowing framework. Combined with effective public awareness-raising campaigns, appropriate civil remedies can significantly improve public perceptions about whistle-blowers and indirectly mitigate professional marginalisation and prospective financial losses (OECD, 2017^[16]).

4.3.5. Mexico City could consider shifting the burden of proof to the employer to present evidence that any penalty exercised against a whistle-blower is not related to the actual or potential disclosure.

Given that reprisals are often very subtle, an employee may find it difficult to prove that reprisals were a consequence of the disclosure (Chêne, 2009^[21]). To mitigate this, several whistle-blower protection systems provide a reversed burden of proof and assume that retaliation has occurred where adverse action against a whistle-blower cannot be clearly justified by management on grounds unrelated to the disclosure (OECD, 2016^[10]). The system in the United States applies a burden-shifting scheme whereby a federal employee who is a purported whistle-blower must first establish that she or he:

- disclosed conduct that meets a specific category of wrongdoing set forth in the law.
- made the disclosure to the “right” type of party (depending on the nature of the disclosure, the employee may be limited in selecting the person to whom to bring the report).
- had a reasonable belief that the information is evidence of wrongdoing (the employee does not have to be correct, but the belief must be one that could be shared by a disinterested observer with knowledge and background equivalent to that of the whistle-blower).
- suffered a personnel action, the agency’s failure to take a personnel action, or the threat to take or not to take a personnel action.
- demonstrated that the disclosure was a contributing factor for the personnel action, failure to take a personnel action, or the threat to take or not take a personnel action (in practice, this is largely equivalent to a modest relevance standard).
- has sought redress through the proper channels.

If the employee establishes each of these elements, the burden shifts to the employer to establish by clear and convincing evidence that it would have taken the same action in the absence of the whistle-blowing, in which case relief to the whistle-blower would not be granted (United States Merit Systems Protection Board, 2011^[22]). Clear and convincing evidence means that it is substantially more likely than not that the employer would have taken the same action in the absence of whistle-blowing (OECD, 2016^[10]).

If Mexico City modifies the current administrative responsibilities law or passes a dedicated whistle-blower protection law, it could shift the burden of proof to the employer if an employee who has made a protected disclosure is subject to any type of penalty. However, this would have implications for legislation on the federal level. Article 281 of the Civil Procedure Code (*Código Procedimientos Civiles*) would need to be modified accordingly. Similarly, the Labour Law would need to be adjusted.

4.4. Ensuring effective review and investigation of reports

4.4.1. To increase trust in the whistle-blower protection framework, Mexico City could create an independent agency to receive and investigate reports on misconduct.

As evident from the on-site interviews, even if there were strong legal protections guaranteed for whistle-blowers, public officials would not necessarily feel comfortable to come forward to report misconduct, given the culture of mistrust and lack of a professional civil service scheme protecting whistle-blowers from unlawful termination of contract.

As a long-term priority, Mexico City could send a strong signal to public officials and the public about its commitment to fight corruption and protect whistle-blowers. This would entail creating an independent agency or position with the mandate to receive, investigate, and provide remedies for complaints of retaliation. Mexico City could introduce an anti-corruption commissioner or trust attorney that allows whistle-blowers to report anonymously, as in several German states (Box 4.5). This would provide individuals with a channel for disclosing wrongdoing that they may feel more comfortable with than the alternatives. In some cases, hotlines or online platforms provide potential whistle-blowers with the option of disclosing information anonymously, a practice that should be coupled with the allocation of a unique identification number to callers that allows them to call back later anonymously to receive feedback or answer follow-up questions from investigators.

Box 4.5. External reporting channels in German states

German states have established different external channels to facilitate reporting:

- **Schleswig-Holstein:** *Anti-corruption Commissioner.* In 2007, the government of Schleswig-Holstein, Germany, set up a contact point for combating corruption (KBK-SH), which was established as a permanent institution after a two-year pilot phase. It has been created as a point of contact for whistle-blowers and is independent from the administration. An Anti-corruption Commissioner for the state of Schleswig-Holstein was appointed to carry out the tasks. The Anti-corruption Commissioner acts as an independent mediator between whistle-blowers, the administration and law enforcement agencies. Whistle-blowers can report to him anonymously or under confidentiality. The Anti-corruption Commissioner is enjoined to total discretion and to fully protect the identity of the whistle-blowers. Reports that are not within the area of responsibility of the contact point are forwarded to the respective office responsible. The Anti-corruption Officer can be contacted by telephone, e-mail or post. Detailed information is made available on the website of the state government of Schleswig-Holstein.
- **Lower Saxony:** *Internet-based information system.* Since 2003, the State Office of Criminal Investigation has been using an Internet-based information system to receive anonymous reports of corruption and economic crime (BKMS system). It is also possible to use a virtual mailbox to communicate anonymously with the police officer and answer follow-up questions on the report.

- **Baden-Württemberg: Trust Attorney.** In September 2009, the position of trust attorney was introduced to improve the handling of reports of corruption. The attorney can be contacted as an independent contact point outside the administration, to receive reports on corruption. The attorney accepts anonymous reports and examines them for their credibility and criminal relevance. If sufficient evidence emerges of misconduct of employees or third parties at the expense of the state government, the report will be referred to the highest state authority. The authority will be in charge of further investigations and may, if necessary, ask the attorney to forward questions to the whistle-blower. If the report does not fall under the purview of the authority, it will be referred to the respective local authority, unless employees of the local authority are accused. It is then sent to the next highest-ranking body. In addition, the State Office of Criminal Investigation operates an Internet-based interactive system.

Source: (Müller, 2012^[23]), *Korruptionsbekämpfung in Deutschland: Institutionelle Ressourcen der Bundesländer im Vergleich*, Transparency International, available from https://www.transparency.de/fileadmin/Redaktion/Publikationen/2012/Korruptionsbekaempfung_in_Deutschland_and_TransparencyDeutschland_2012.pdf, accessed on 27 February 2017.

In Canada, the Public Sector Integrity Commissioner, an independent office receiving and investigating disclosures is required to report annually to Parliament and has the power to give recommendations to the heads of public offices. The Public Servants Disclosure Protection Tribunal is in charge of determining remedies and penalties when violations of whistle-blowers' rights occur (Box 4.6).

Box 4.6. Office of the Public Interest Commissioner Alberta, Canada

The Office of the Public Interest Commissioner is an independent office of the Alberta Legislature providing advice and investigating disclosures of wrongdoing and complaints of reprisals made by employees of jurisdictional public entities covered by Alberta's Public Interest Disclosure Act. The Public Interest Commissioner is a nonpartisan officer of the Legislature appointed by the Lieutenant Governor in Council on the recommendation of the Legislative Assembly, for a term of five years with the possibility of reappointment. On its website, the Office provides clear guidance on whom the whistle-blower legislation applies to, what is defined as a wrongdoing, what is a reprisal, and how public officials are protected. An online disclosure form is made available through the website.

The Office of the Public Interest Commissioner also gives advice to public entities by providing examples of whistle-blower policies and procedural guidelines and checklists. The Office also provides recommendations on the legislation and possible improvements.

Its annual budget, which is approved by the legislative assembly, was CAD 1.196 million in 2014-15.

Source: <https://yourvoiceprotected.ca/about-us/#role-of-the-commissioner>.

4.5. Strengthening awareness

4.5.1. An intensive communication strategy, within government entities and in society at large, could increase the knowledge of the reporting channels and protections available.

To promote a culture of openness and integrity in which public officials trust that their reports will be followed up and that they will be protected from reprisals, the legislation will need to be supported by an open organisational culture in government entities. This will include awareness-raising, communication and training efforts. Assuring whistle-blowers that their concerns are being heard and that they are supported in their choice to come forward is paramount to the integrity of an organisation, and to how whistle-blowers are viewed by society as a whole. There are multiple measures that organisations can take to encourage the detection and disclosure of wrongdoing. These steps would encourage an open organisational culture, help reinforce trust and working relationships, and boost staff morale.

Mexico City does not at present offer training for senior managers on how to create an open organisational culture within their area of management. The Directorate for Complaints and Reports (*Dirección de Quejas y Denuncias*) of the Comptroller's Office, in co-ordination with Human Resources, could develop an annual training course for senior management on how to create such a culture, how to be receptive to reports of misconduct, and how to proceed when receiving such reports. In addition, Mexico City could oversee annual training and notices to public officials on their rights and the available protection under the whistle-blower legislation. For example, the US Office of the Special Counsel (OSC) has a Certification Programme developed under section 5 U.S.C. § 2 302(c), which has made efforts to promote outreach, investigations and training as the three core methods for raising awareness. The OSC offers training to federal agencies and non-federal organisations in each of the areas within its jurisdiction, including reprisal for whistle-blowing. To ensure that public officials understand their whistle-blower rights and how to make protected disclosures, agencies must complete OSC's programme to certify compliance with the Whistle-blower Protection Act's notification requirements (Box 4.7).

Box 4.7. The United States’ approach to increasing awareness through the Whistle-blower Protection Enhancement Act

Under 5 U.S.C. § 2 302(c) of the Whistle-blower Protection Enhancement Act (WPEA) stipulates that “the head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management, and for ensuring (...) that agency employees are informed of the rights and remedies available to them, including how to make a lawful disclosure of information that is specifically required by law or Executive order to be kept classified in the interest of national defence or the conduct of foreign affairs to the Special Counsel, the Inspector General of an agency, Congress, or other agency employee designated to receive such disclosures.”

Furthermore, Section 117 of the Act “designates a Whistle-blower Protection Ombudsman who shall educate agency employees”:

1. about prohibitions on retaliation for protected disclosures; and
2. who have made or are contemplating making a protected disclosure about the rights and remedies against retaliation for protected disclosures.

Source: (American Bar Association, 2012^[24]), Section of Labor and Employment Law, “Congress Strengthens Whistle-blower Protections for Federal Employees,” Issue: November-December.

Furthermore, all government entities within the administration, co-ordinated by the Directorate for Complaints and Reports (*Dirección de Quejas y Denuncias*) of the Comptroller’s Office, could introduce awareness-raising campaigns. These would underscore whistle-blowers’ role in promoting the public interest by shedding light on misconduct that harms the effective management and delivery of public services and ultimately, the fairness of the whole public service. Such campaigns will counter any perception that whistle-blowing constitutes a lack of loyalty to the organisation. For example, the Public Interest Commission of Alberta designed a series of posters and distributed them to public entities to be displayed in employee workspaces. The posters show messages such as “Make a change by making a call. Be a hero for Alberta’s public interest”. Public officials should feel that they should remain loyal to the public interest, and not to public officials who have been appointed by the government of the day. The UK Civil Service Commission suggests including a statement in staff manuals to assure them that it is safe to raise concerns (Box 4.8). Mexico City may consider similar statements and materials.

Box 4.8. Example of a statement to staff reassuring them to raise concerns

“We encourage everyone who works here to raise any concerns they have. We encourage ‘whistle-blowing’ within the organisation to help us put things right if they are going wrong. If you think something is wrong, please tell us and give us a chance to properly investigate and consider your concerns. We encourage you to raise concerns and will ensure that you do not suffer a detriment for doing so.”

Source: UK Civil Service Commission: <http://civilservicecommission.independent.gov.uk/wp-content/uploads/2014/02/Whistle-blowing-and-the-Civil-Service-Code.pdf>.

By introducing and implementing such measures, Mexico City can facilitate awareness of the importance of an open organisation culture and whistle-blower protection, which not only enhances understanding of these mechanisms, but is also an important mechanism used to correct the often negative perceptions associated with the term whistle-blower. Communicating such messages publicly can enhance the perception of whistle-blowers as important safeguards for the public interest. Moreover, demonstrating the importance of whistle-blowers and showing how they are protected in practice can help restore trust in the government. In the United Kingdom, public understanding of the term whistle-blower shifted considerably after the adoption of the Public Interest Disclosure Act in 1998 (Box 4.9).

Box 4.9. Changing cultural connotations in the United Kingdom of the concept of whistle-blowing

In the United Kingdom, a research project commissioned by Public Concern at Work from Cardiff University examined national newspaper reporting on whistle-blowing and whistle-blowers over the period from 1 January 1997 to 31 December 2009. This includes the period immediately before the introduction of the Public Interest Disclosure Act and tracks how the culture has changed since then. The study found that whistle-blowers were overwhelmingly represented in a positive light in the media. Over half (54%) of the newspaper stories represented whistle-blowers in a positive light, with only 5% of stories being negative. The remainder (41%) were neutral. Similarly, a study by YouGov found that 72% of workers view the term “whistle-blowers” as neutral or positive.

Source: (Public Concern at Work, 2010^[25]), “Where’s whistle-blowing now? Ten years of legal protection for whistle-blowers”, Public Concern at Work, London, p. 17, YouGov (2013), YouGov/PCAW Survey Results, YouGov, London, p. 8.

4.6. Conducting evaluations and increasing the use of metrics**4.6.1. Regular staff climate surveys could assess the effectiveness of the measures taken to promote an open organisational culture**

Employee surveys can review staff awareness, trust and confidence in whistle-blowing mechanisms. In Colombia, for example, the National Statistics Department (*Departamento Administrativo Nacional de Estadística*) conducts surveys with public

officials that include questions on the organisational climate, why a public official would not report corruption, whether there is knowledge of the existence of protection mechanisms, and if public officials would seek protection. Such efforts play a key role in assessing progress – or lack thereof – in creating an open organisational culture.

Under the guidance of the Executive Commission of the Local Anti-corruption System, each government entity could regularly survey staff on the organisational climate, to assess the outcome of policies intended to promote an open climate. Collecting these surveys centrally and ranking the results could encourage entities to increase their efforts to improve the organisational culture.

4.6.2. Mandating a periodic review of whistle-blower protection legislation could assess the implementation, effectiveness and relevance of the legislation.

Following the OECD's recommendation on the federal level (OECD, 2017^[16]), Mexico City could consider periodically reviewing the Administrative Responsibilities Law and, if it is enacted, the dedicated whistle-blower protection legislation, to assess whether the mechanisms in place are meeting their intended objectives and whether the law is adequately implemented. This would allow for adjustments, if necessary. Provisions on the review of effectiveness, enforcement and impact of whistle-blower protection laws have been introduced by a number of OECD countries, such as Australia, Canada, Japan, and the Netherlands. Japan's Whistle-blower Protection Act specifically outlines that the government must take the necessary measures based on the findings of the review. At the federal level and in the provinces of Canada, the review of the legislation enacted to protect disclosure of wrongdoings and for protecting public servants who disclose wrongdoings must be presented before the Legislative Assembly.

4.6.3. To evaluate the effectiveness of the whistle-blower framework, Mexico City could consider systematically collecting data and establishing robust indicators.

Mexico City could gather information on 1) the number and types of disclosures received; 2) the government entities receiving most disclosures; 3) the outcomes of cases (i.e. if the disclosure was dismissed, accepted, investigated and validated, and on what grounds); 4) whether the misconduct came to an end as a result of the disclosure; 5) whether the organisation's policies were changed as a result of the disclosure if gaps were identified; 6) whether penalties were exercised against wrongdoers; 7) the scope, frequency and target audience of awareness-raising mechanisms; and 8) the time it takes to process cases (Transparency International, 2013^[18]; Apaza and Chang, 2011^[26]).

This data can help assess how effective the policies supporting an open organisation culture are and, more specifically, make possible an assessment of the effectiveness of whistle-blower protection mechanisms. To measure the effectiveness of protective measures for whistle-blowers, additional data could be collected on cases where whistle-blowers claimed that they experienced reprisals. This could include whether allegations of reprisals were investigated, by whom, and how reprisals were exercised, whether and how whistle-blowers were compensated, the basis for these decisions, the time it takes to compensate whistle-blowers, and whether they were employed during the judicial process.

Proposals for action

An open organisational culture, responsive to integrity concerns, ensures integrity and encourages employees to express their concerns without fear of persecution. Legitimising and structuring mechanisms through a legal framework is essential to this approach, as are organisational policies that allow public officials to disclose actual or perceived wrongdoings.

Encouraging an open organisational culture

- To ensure that senior managers act as role models, integrity could be included as a performance indicator to incentivise the application of the Code of Ethics.
- To encourage public officials to voice concerns and discuss integrity concerns, the Comptroller's Office could engage senior public officials to provide guidance, advice and counsel.
- To empower and engage employees, staff champions for openness could consult with staff on measures to improve employee well-being, work processes and openness.
- A mentoring programme for junior public officials could be developed to guide and support employees and create a future ethical management cadre.

The right legal framework can encourage reporting and guarantee protection for whistle-blowers.

- Mexico City could enact a dedicated whistle-blower protection law to avoid duplication, ensure clarity of the kind of protections applicable and to ultimately create greater confidence in the protection framework.
- The difference between witness and whistle-blower protection needs to be clearly delineated, to ensure that disclosures that do not lead to a full investigation or to prosecution are still eligible for legal protection.
- Mexico City could consider specifically prohibiting the dismissal of whistle-blowers without cause, or any other kind of formal or informal work-related penalty that has been exercised in response to the disclosure.
- By explicitly including civil remedies for public officials who suffer reprisals after disclosing misconduct, Mexico City would add another layer of protection to the whistle-blower protection framework.
- Mexico City could consider shifting the burden of proof to the employer, to provide evidence that any penalty imposed on a whistle-blower is not related to the actual or potential disclosure.

Ensuring effective review and investigation of reports

- To strengthen trust in the procedures and guarantees of the whistle-blower protection framework, Mexico City could create an independent agency mandated to receive and investigate reports on misconduct and provide remedies as necessary.

Strengthening awareness

- A communication strategy and increased awareness-raising efforts, both within the different government entities as well as externally, would increase the knowledge of the available reporting channels and protections.

Conducting evaluations and increasing the use of metrics

- Regular staff climate surveys could assess the effectiveness of the measures taken to promote an open organisational culture.
- Mandating a periodic review of the whistle-blower protection legislation would ensure an assessment of the implementation, effectiveness and relevance of the legislation.
- To evaluate the effectiveness of the whistle-blower framework, Mexico City could consider systematically collecting data and establishing robust indicators.

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Chapter 5. Cultivating a culture of public integrity: A challenge for Mexico City

Public sector integrity involves not only adopting regulations preventing and punishing corruption and integrity violations but transforming individual behaviour and values in society. It implies recognising that integrity violations occur amongst citizens and firms. When society shows a high level of tolerance of corruption, the impact even of strong laws and well-designed institutional arrangements may be limited. Government should thus enlist the active participation of the whole of society in promoting and adopting social norms for integrity, as a crucial element in preventing corruption. This chapter explores the level of integrity and the tolerance of corruption in Mexico City and offers recommendations for cultivating social norms for integrity through raising awareness, building capacity and eliciting changes in behaviour. The second section of the chapter provides some insights on how to instil integrity norms and values in youth, and gives proposals for including integrity and anti-corruption education into the curriculum for schools.

5.1. Introduction

Corruption involves multiple stakeholders. When citizens pay bribes to local authorities, evade taxes and try to exercise undue influence to obtain an unfair benefit, they are undermining trust in public institutions but also in markets, reducing the quality of life of the society as a whole. Similarly, unfair practices in the private sector, such as collusion, payment of bribes to public officials or illegal political contributions also have a negative impact and undermine trust in government. Citizens and the private sector are jointly responsible with government institutions for the erosion of public trust and for the poor results of initiatives intended to deter corruption.

Changing institutions and individual behaviour cannot be achieved simply by changing government regulations; it requires a transformation of individual behaviour and values. The active participation of the private sector, civil society, academia and other stakeholders at all stages of the political process entails an acknowledgement of the risks to integrity in interacting with the public sector. Moreover, citizens' active participation in the deliberation, decision making and implementation of public policies sends a message that solutions to public issues are not only the responsibility of government but of society at large. This decreases the political risks and costs (OECD, 2009^[1]).

Promoting a whole-of-society culture of public integrity and partnering with the private sector, civil society and individuals can enhance public integrity and reduce corruption in the public sector (OECD, 2017^[2]). As such, it needs to be considered in any strategic approach to corruption at the national level. Government policies to promote a culture of public integrity should focus more precisely in two main actions: 1) recognising the important role they play in enhancing the public integrity system by upholding integrity norms as a shared responsibility, and 2) launching public campaigns showing the benefits of integrity and how important it is to reduce tolerance of integrity violations. The focus should be on promoting civic education on public integrity among the private sector, individuals and, more precisely, schools (OECD, 2017^[2]).

Mexico's National Anti-corruption System (SNAC) and also Mexico City's Local Anti-corruption System (*Sistema Local Anticorrupción de la Ciudad de México*, SLAC-CDMX) recognise the important role civil society and private sector play, given that the Citizen Participation Committee presides over the Anti-corruption Co-ordination Committee. However, some improvements are still required. At present, no concrete initiatives are under way to disseminate integrity values following a whole society approach in Mexico City's integrity strategy. This chapter offers recommendations on how to leverage the anti-corruption reforms to instil a culture of integrity by 1) promoting ownership and recognition amongst key stakeholder groups of the joint responsibility in cultivating integrity values in society and 2) raising awareness of the social, economic and political benefits of integrity.

5.2. Instilling a shared sense of responsibility for integrity in society

5.2.1. Encouraging a sense of shared responsibility for integrity in Mexico City among citizens and the private sector in public awareness campaigns.

In Mexico City, anti-corruption initiatives have focused in adopting laws and regulations to deter corruption in its public service. However, even clear laws and well-designed institutional arrangements may face difficulties in implementing the overall integrity strategy seeking to prevent corruption, unless citizens and representatives from the

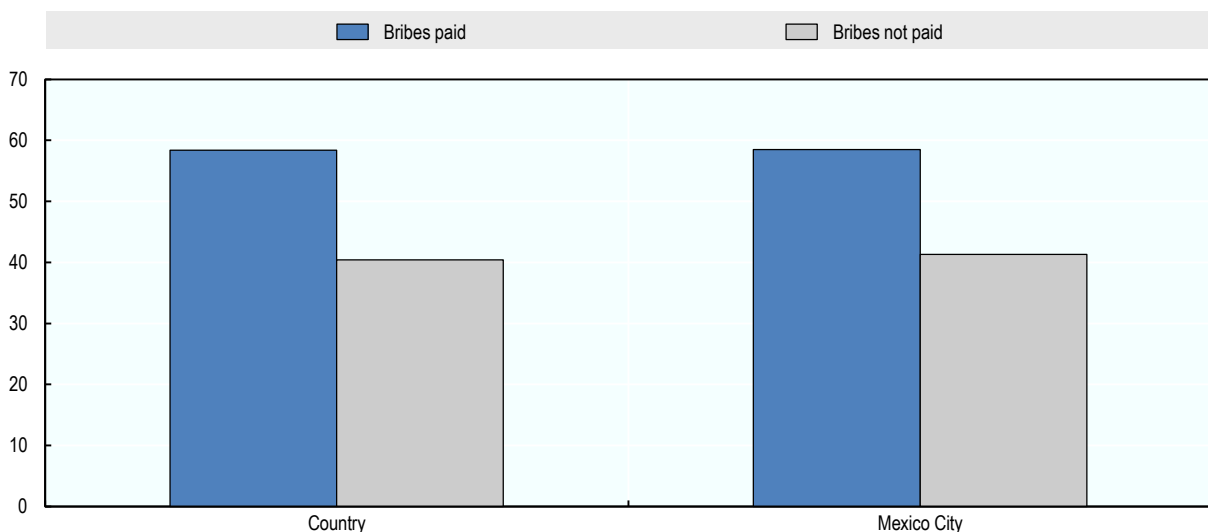
private sector also assume responsibility for acting with integrity in their interactions with the government. Reversing a culture where integrity and corruption violations are commonly accepted across society needs more than the implementation of integrity legislative reforms.

In fact, various studies demonstrate that in a context where the prevailing social norms are tolerant of corruption, any legal and institutional reform for integrity risk failure (Acemoglu and Jackson, 2014^[3]). The social environment has a strong influence on individual attitudes towards corruption (Gatti, Paternostro and Rigolini, 2003^[4]). In a context where the predominant social norms excuse corruption and rule-breaking behaviour, concrete steps must be taken to communicate and show the new expected social norms, to ensure that all citizens and government organisations are aware of the new standards of conduct they will be held to.

Research made by pro-social behaviour specialists confirms that spontaneous pro-social behaviour emerges at a very early age. Toddlers display pro-social and empathic behaviour by offering to help, share food and hug a crying peer, and children under the age of two demonstrate a developed sense of fairness (Eisenberg, Spinrad and Morris, 2013^[5]). However, during early adolescence, this tends to decline, then recovers in due course under a new form of pro-sociality characterised by a civic and volunteering attitude. According to these specialists, if we observe a crowd, adult citizens are less likely to be pro-social than children and adolescents and only exceptional individuals become moral exemplars showing a high moral commitment or even heroic sacrifice. In a culture of corruption, individuals are more tolerant of corruption, as they may feel discouraged when trying to fight corruption.

The number of misdemeanours reported in Mexico City in comparison to the number of citizens who report that they have paid a bribe in dealing with the administration in various sectors (whether in education, the judicial system, health and medical services, police, etc.), suggests that citizens have a high tolerance for corruption (see Figure 5.1).

Figure 5.1. Number of bribes reported paid to government public officials in Mexico City



Source: Based on the (INEGI, 2015^[6]), *Encuesta Nacional de Calidad e Impacto Gubernamental (ENCIG)*, 2015, online database www.beta.inegi.org.mx/proyectos/enchogares/regulares/encig/2015/.

This apparent indifference towards corruption is not an exclusive challenge for Mexico City but appears to be present across the country. It is reflected in the results of the National Strategy of Civic Culture 2017-2023 made by the Electoral National Institute, which notes that a high tolerance for illegal acts prevails in Mexico. These results indicate that corruption in Mexico exists not only at the institutional level but also in the social fabric, where the rule of law has lower incentives by comparison with the advantages that corruption apparently offers (Instituto Nacional Electoral, 2016^[7]). The report also indicates that citizens not only seem to tolerate illegal acts but are inclined to justify them (Instituto Nacional Electoral, 2016^[7]).

In this context, Mexico City could consider the whole-of-society approach as a component of its anticorruption reforms, as was suggested for the national anti-corruption strategy. Indeed, as highlighted by the OECD in its assessment of the SNAC and its future action plan, citizens and firms can play a vital role in countering corruption, which should be recognised by including explicit initiatives targeting citizens and the private sector (OECD, 2017^[2]). The active participation of citizens, private sector and non-profit organisation in raising awareness can help change behaviour not only within the public sector but also in the way citizens interact with the public administration.

5.2.2. Mexico City's experience working with civil society organisations could be leveraged to include the whole society approach as part of the Local Anti-corruption System.

Mexico City's anti-corruption strategy recognises the participation of civil society in the implementation of the General Programme for the Development of the Federal District 2013-2018. The fifth strategic initiative of this plan notes that the government of Mexico City will include citizen participation in government planning, monitoring and assessment of government actions, follow-up on goals and providing information to increase efficiency in implementing policies, as well as programmes to hold the government accountable and fight corruption. However, none of the initiatives have been oriented toward raising public awareness of the benefits of integrity and reducing tolerance of violations of public integrity.

To take firm actions against corruption, Mexico City took certain measures to ensure citizen participation in policy-making decisions designed to encourage an effective integrity system that prevents and fights corruption. Mexico City invited citizens and representatives of civil society to participate in a Citizen Consultative Council set up in 2013. This council worked with the Office of the Comptroller-General to assess the status of the integrity system. They were mandated to ensure that citizens receive honest, fair and equal treatment from public sector entities and that public officials comply with the values and standards of conduct set out in their ethical framework. The Council observed that while various integrity instruments and organisations were in place to oversee public sector activities and fight corruption, they were not operating in co-operation, and recommended a reform. This information was shared with the government, but it seems that no additional recommendation was provided on how to resolve these issues. As of the end of 2014, this Citizen Consultative Council has ceased its activities.

To enhance integrity in its public organisations, Mexico City has also worked with civil society organisations, in particular the Mexican Institute for Competitiveness (*Instituto Mexicano para la Competitividad A.C.*, or IMCO) and *Transparencia Mexicana*, both representing the civil society sector, to set out the current conflict of interest legal framework and the electronic public registry that contains the tax, assets and interests

declarations currently in place. However, they have not been involved in any public campaigns to raise awareness of the integrity framework.

In December 2015, Mexico City signed an agreement creating the Inter-institutional Preparatory Council for the Implementation of the Anti-corruption System of Mexico City (COIPISA agreement) which worked with civil society organisations to establish the mechanisms for laying out the strategic pillars for the Local Anti-corruption System. COIPISA prepared a series of drafts of the future secondary laws. The conclusion of this agreement recognises the role that civil society plays in elaborating the integrity strategy to fight corruption in Mexico City.

Mexico City has taken initiatives to engage civil society in policies to fight corruption but has not yet included strategies encouraging participation of the private sector, civil society and citizens. When a government invites civil society and the private sector to fight government corruption, it recognises that distrust created by corruption alters the fundamental relationship between the government and the governed and the general welfare of society (Alford, 2012^[8]). Mexico City needs to consider the possibility of including civil society in future initiatives to uphold the ethics standards in government. A co-operation agreement could encourage civil society to help Mexico City to reduce tolerance for corruption. By working with civil society organisations, citizens and the private sector, Mexico City sends a message to all stakeholders that it cares about the trust they have in government entities, their contribution to set standards and priorities for the maintenance of public governance and reducing tolerance of integrity violations, as in Bogotá and Pereira in Colombia (Box 5.1) and corruption in Hong Kong (Box 5.3).

Box 5.1. Changing attitudes to rule breaking in Colombia: the experience of Bogotá and Pereira

In 1994, when Dr. Antanas Mockus became mayor of Bogotá, the Colombian capital was known as the murder capital of the world, with a notoriously corrupt municipal government. In an effort to reform his city, Dr. Mockus instituted a series of unique measures to change public attitudes to rule breaking. A group of theatre students were stationed at traffic intersections around the city, wearing white face paint and tights, to help enforce traffic rules. Instead of carrying guns, the mimes carried cards with a thumbs-down picture on them. If they caught someone breaking the rules, they would flash the cards, football-referee style. Regular citizens joined in and helped them to enforce the rules with this humorous approach. In a few months, the percentage of pedestrians obeying traffic signals was reported to rise from 26% to 75%. Mockus went on to expand his reform agenda, instituting a broader range of measures to tackle the city's violence, crime and poverty, such as closing down the transit police department, whose employees were notorious for demanding bribes, and initiating a series of large-scale public works projects to improve service delivery to the city's poor. It was his efforts to change attitudes, however, that he felt were fundamental to all his forms, noting that the transformation of civic culture was crucial in addressing the issues Bogotá faced.

Mockus' experiment indicates that improvement in legal reasoning and responsible behaviour on a large scale is possible. This experience inspired the "Culture of Lawfulness" (COL) project managed by the National Strategy Information Center, a Washington, DC-based non-profit educational organization in the city of Pereira. COL worked with Pereiran government and civic leaders to institute a series of programmes

aiming to promote respect for the rule of law among Pereira's citizens. It should be noted that not all the movement's tactics were designed exclusively to fight corruption. However, promoting the broader issue in many areas of daily life can ultimately create a culture that is intolerant of corruption. Respecting the rule of law becomes a norm for everyone in society.

Under the various activities of these programmes, a major area of COL's work in Pereira focuses on transport safety. The major cause of traffic accidents was ignorance of traffic laws. With the partnership of the police, Megabus (the city's metrorail system), the secretary of education, the Institute of Transport, the Center for Studies of Economic Development (CEDE), COL, motorcycle repair shops and City Hall, an initiative was launched to educate Pereirans about traffic safety and reduce the number of accidents involving motorcyclists and pedestrians. This initiative included giving "proof of life" cards (*cartas de prueba de vida*) to cyclists. The cards carried a short three-question quiz about simple traffic laws. Cyclists were asked to sign a safety pledge and hand them in. More than 4 000 pedestrians and motorcyclists signed and returned these life pledges. In addition, several main thoroughfares in Pereira have been updated with traffic lights and new lane markings, and more than 200 citations have been issued to cyclists and motorcyclists for traffic infractions, with an emphasis on equal application of the law, regardless of political or socioeconomic status.

These two experiences in cities with major problems of compliance with the law shows the possibility of changing attitudes and transforming civic culture.

Source: (Fisman and Miguel, 2008^[9]), *Economic Gangsters: Corruption, Violence and the Poverty of Nations*, Princeton University Press; and (Panth, 2011^[10]), "Changing norms is key to fighting everyday corruption", The International Bank for Reconstruction and Development/The World Bank Communication for Governance and Accountability Program (CommGAP) External Affairs, www.worldbank.org/commgap (accessed 20 May 2017).

Since the institutional arrangement of the Local Anti-corruption System will mirror the national setup, Mexico City's future Citizen Participation Committee could play a key role in facilitating the inclusion of the whole-society approach. The proposed action plan by the Executive Secretariat to the Co-ordination Committee recognises the vital role civil society and the private sector have in anti-corruption initiatives. This action plan could include not only public awareness campaigns but also educational activities organised by the appropriate ministries (the Ministry of Education and the Office of the Comptroller-General, in its role as ensuring Mexico City's public sector integrity). This will provide citizens with the skills and mechanisms to challenge a general tolerance of corruption and to reject unethical behaviour in their dealings with public sector organisations.

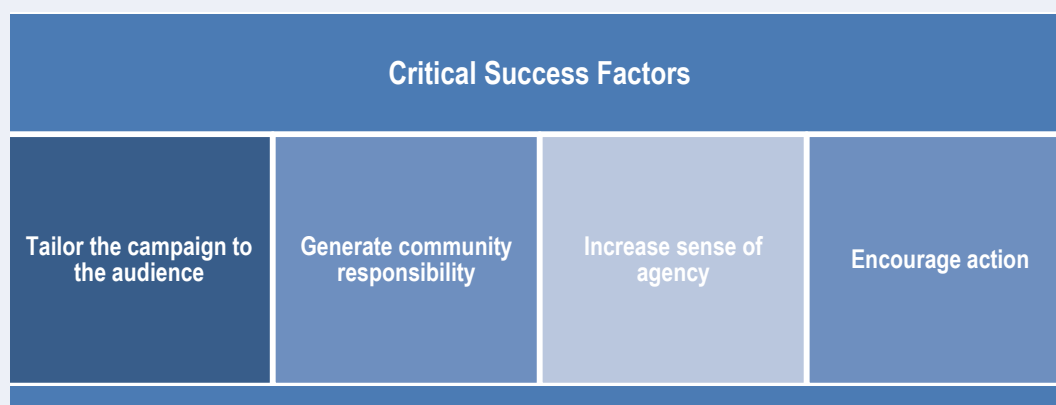
These proposed public initiatives could be conducted in a variety of forums, including TV commercials, public billboards and social media (Twitter, Facebook, YouTube and LinkedIn). The Office of the Comptroller and other ministries in Mexico City already use social media to communicate with citizens and civil society and inform public officials of the various initiatives for fighting corruption, such as the approval of ethics and conflict of interest rules, the recruitment of additional Citizens Comptrollers to increase transparency and integrity of the public procurement activities, the publication of the penalties imposed on public servants in case of violations of integrity rules, etc. It would be feasible for Mexico City to use the means of communication already in place to disseminate information about the proposed programmes for public initiatives, and to communicate: 1) the expected social norms for integrity based on the recent anti-

corruption reforms; 2) the roles and responsibilities of citizens and the private sector for upholding these social norms; and 3) the collective benefits of upholding a culture of public integrity for Mexico as a whole.

Well-designed anti-corruption awareness campaigns on reducing acceptance of corruption, ranging from reduced levels of integrity violations to changing social behaviour, should be tailored to their audience, generate community responsibility, increase a sense of agency and encourage action (see Box 5.2).

Box 5.2. Success factors for effective campaigns to change behaviour

Lessons learned from existing successful behaviour change campaigns can be leveraged to inform the development of successful anti-corruption campaigns.



Tailor the campaign to the audience:

- Use existing attitudes.
- Make the issue publicly accessible.
- Make the issue culturally specific.
- Look at the issue from the target audience's point of view.

Generate community responsibility:

- Make the issue socially unacceptable by framing the issue in moral terms.
- Highlight the wider impact of the issue on society and demonstrate its impact on human life.

Increase a sense of agency:

- Develop a sense of self-control, motivation, knowledge and skills.
- Offer alternative behaviour.

Encourage action:

- Highlight the action that needs to be taken, such as the proper procedures for reporting corrupt activities.

Source: Mann, C. (2011), “Behaviour changing campaigns: success and failure factors”, U4 Expert Answer, Transparency International”, <http://www.u4.no/publications/behaviour-changing-campaigns-success-and-failure-factors/>.

OECD’s adaptation from (Mann, 2011^[11]), on (OECD, 2017^[12]), *OECD Integrity Review of Mexico: Taking a Stronger Stance Against Corruption*, OECD Public Governance Reviews, OECD Publishing, Paris.

In developing an awareness campaign that aims to change social norms, it is also important to avoid fear-based campaigns. These can have the result that the message is dismissed as too extreme, unlikely to happen, or too disturbing. Likewise, campaigns that lack a credible voice, that sensationalise the issue and avoid credible and authentic evidence, are rarely effective, as recipients do not identify with the issue at hand.

5.2.3. Public campaigns need to be complemented by training programmes for citizens, focusing on areas susceptible to fraud or corruption, and the clear assignment of responsibilities to the relevant ministries.

Raising a sense of joint responsibility for integrity and adopting social norms of integrity requires integrity and anti-corruption training programmes that go beyond raising awareness. To achieve real progress, these campaigns should focus on instilling in society collectively the commitment, confidence and motivation to make the moral choice and accept their responsibility to address ethical dilemmas as they arise. Moreover, awareness-raising initiatives should aim to change citizens’ expectations of public behaviour and the belief that they are entitled to expect a government that is not corrupt. This is only possible when the political and public wills are supported by the appropriate organisational and procedural integration (Langseth, Stapenhurst and Pope, 1997^[13]).

Traditionally, integrity and anti-corruption training programmes target certain groups of citizens, in the private sector or actively involved in organized civil society activities for non-profit organisations. These training programmes have successfully provided such groups with knowledge and skills to uphold integrity within their communities. For example, Hong Kong’s Independent Commission Against Corruption, created in 1974, has engaged in integrity and anti-corruption strategies including training programmes and public awareness-raising campaigns. More frequent reporting on corruption has since been reported (Box 5.3).

Box 5.3. Hong Kong’s Independent Commission Against Corruption: fighting corruption through civic education and awareness-raising programmes

Since it was set up in 1974, Hong Kong’s Independent Commission against Corruption (ICAC) has embraced a three-pronged approach to fight corruption, including: law enforcement, prevention and community education.

The Community Relations Department (CRD) is responsible for promoting integrity in society, and uses various methods to educate society, including civic education programmes and awareness-raising campaigns.

Civic education

The CRD offers tailor-made preventive education programmes, ranging from training workshops to integrity- building programmes, for community groups including

businessmen and professionals. Training workshops cover: prevention of bribery ordinance, the pitfalls of corruption, ethical decision-making at work, and managing staff integrity. The CRD also disseminates anti-corruption messages to students in secondary schools and at institutions of higher education, through interactive dramas and discussions on personal and professional ethics. The CRD also organises regular talks and seminars for the private and non-profit sector, advising them how to incorporate corruption prevention measures into their operational systems and procedures. Topics range from knowledge on the pitfalls of corruption, risk management, ethical governance and what to do if offered bribes.

Awareness campaigns

The CRD also uses various platforms and techniques to raise awareness about corruption and publicise anti-corruption messages to different segments of society. Anti-corruption messages are disseminated through television and radio advertisements, such as the TV drama series “ICAC Investigators”, which has become a household byword.

Likewise, the CRD communicates its messages through poster campaigns and the Internet. The main ICAC website provides the public with the latest news of the Commission, information on corruption prevention, and access to ICAC audiovisual products and other publications. The website is also home to the two video channels for ICAC, including the complete ICAC TV drama series and training videos on how to prevent corruption. The ICAC show *Weibo* tweets about integrity-related issues to educate the general public on the evils of corruption, and the ICAC smartphone app carries all the ICAC’s latest news and activities, including the integrity videos. The ICAC eBooks Tablet App also provides users with access to the ICAC e-publications, to ensure that the general public can access anti-corruption materials at any time.

In its first year of operation, the public education campaigns resulted in 3 189 reports of alleged corruption, more than twice the number of reports received by police in the previous year (Panth, 2011^[10]). More than 30 years later, the ICAC’s efforts have paid off; 7 out of 10 citizens are now willing to report corruption (Johnston, 2005^[14]). As Hong Kong’s example demonstrates, preventing corruption was not solely the result of strong institutions and laws. Enhancing society’s participation to hold institutions to account, as well as continuous, concerted attention and efforts, has led to an environment in which corruption is rejected by public officials and citizens alike.

Sources: ICAC website, www.icac.org.hk/en/ack/pep/index.html, accessed 31 May 2017; (Panth, 2011^[10]), “Changing norms is key to fighting everyday corruption”, The International Bank for Reconstruction and Development / The World Bank Communication for Governance and Accountability Program (CommGAP) External Affairs, www.worldbank.org/commgap; (Johnston, 2005^[14]), *Syndromes of Corruption: Wealth, Power and Democracy*, Cambridge University Press, Cambridge, England.

It is recommended that the future Local Anti-corruption System Citizen Participation and Co-ordination Committees assign clear responsibilities to the Office of the Comptroller, which, in co-ordination with the School of Public Administration (*Escuela de Administración Pública*, EAP), could develop a series of integrity and anti-corruption training programmes for citizens and civil society organisations. Rather than communicating the content of the Ethics Code and the legislative framework to citizens, civil society organisations and firms, these training programmes could include modules focusing on: 1) corruption and the impact of violations of the law on society;

2) promoting an understanding of why citizens/private sector/non-profit organisations may violate the rule of law; 3) public integrity and society's roles and responsibilities to uphold it; 4) developing a capacity for resolving ethical dilemmas; and 5) communicating the roles and responsibilities of public officials for integrity and the activities through which citizens/private sector/non-profit organisations can support the integrity of public officials (OECD, 2017^[2]).

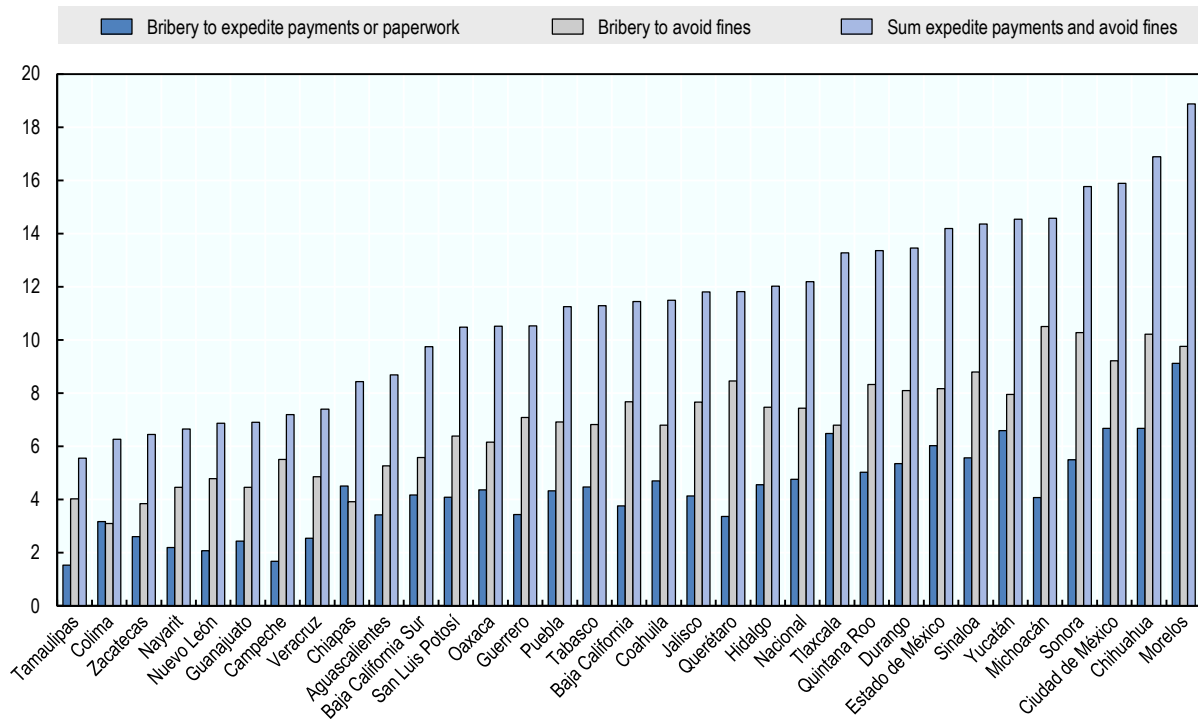
These proposed training programmes could be offered in two forms: in-class training programmes for citizens/private sector/non-profit organisations and e-learning training programmes for citizens, using the format currently in place in the website of the School of Public Administration (*Escuela de Administración Pública*, or EAP) for the training on public ethics and administrative responsibilities (see Chapter 3.).

This training could be made available on the Digital Platform, which will present information created by the public entities responsible for fighting corruption and ensuring compliance with the local anti-corruption system. The in-class training programme could be conducted by members of the Office of the Comptroller, in co-ordination with the EAP, and its content could be tailored to requests for training submitted by a specific business or organisation. To guarantee a high level of enrolment for these sessions, especially from members of firms or non-profit organisations, incentives for completion could be offered, such as certificates recognising attendees as “Citizen for Integrity” or “Business for Integrity” or “NGO for Integrity”. This could qualify to them, for instance, to participate in public procurement processes or for funding and support.

The Office of the Comptroller can use various means of communication to disseminate the e-learning and in-class training programmes, such as its official website, Twitter and Facebook, or even TV commercials. Mexico City could also inform citizens who benefit from various social programmes, such as from the Ministry of Social Development (*Secretaría de Desarrollo Social*) when Citizen Comptrollers oversee the delivery of social programmes, as required by the agreement signed by Office of the Comptroller-General and the Ministry of Social Development and implemented in April 2016. Mexico City could take advantage of the role played by Citizen Comptrollers in monitoring public spending and the effectiveness of social programmes and ask for their support to distribute leaflets in the context of their interventions.

Mexico City could also consider training programmes in areas where fraud and corruption, such as bribes paid to expedite payments or paperwork and to avoid payment of taxes, are more likely to occur (Figure 5.2). Mexico City needs to identify areas of vulnerability based on verification of the delivery of services of these government entities and sectors.

Figure 5.2. Areas where fraud and corruption acts are commonly reported in Mexico City, in comparison with other Mexican states



Source: Based on the (INEGI, 2015^[6]), *Encuesta Nacional de Calidad e Impacto Gubernamental (ENCIG)*, 2015, online database www.beta.inegi.org.mx/proyectos/enchogares/regulares/encig/2015/.

Mexico City could also use education programmes to raise awareness of specific responsibility for public integrity, such as those carried out at the federal level by the SAT, which has incorporated civic education programmes for adults to reduce tax evasion (Box 5.4). The SLAC-CDMX Co-ordination Committee could consider this good practice at the federal level. Such training could be included in its Action Plan, specifying the need to work with other Mexico City government entities that deal with high-risk areas, including social programmes. Such training programmes should be tailored to specific high-risk areas (unemployment insurance fraud, health insurance fraud and other types of social benefit fraud, free-riding on public transport, etc.), identifying the roles and responsibilities for citizens in these areas, and providing citizens with knowledge and skills to resist corruption and information of the impact of their fraudulent behaviour in society as a whole.

Box 5.4. SAT's role in teaching tax in higher education

In response to high levels of tax evasion, Mexico's Tax Administration Service (*Servicio de Administración Tributaria*, or SAT) has been actively educating citizens on their duties and obligations to pay taxes. One such programme has been the introduction of courses on tax in universities.

Engaging with and educating future finance and accounting professionals will provide them with the tools they need to interact with the tax administration during their career. This is the basis for the SAT's educational strategy, launched in 2004: a win-win strategy to produce informed and receptive tax professionals who can play a key role in improving tax awareness and compliance.

To carry out this initiative, a "collaboration agreement" between the Secretariat of Finance and Public Credit and the Secretariat of Public Education was signed. The agreement is to co-ordinate civic education matters through tax education programmes for the public, including promoting programmes that will strengthen a culture of civic participation in the national education system.

This collaboration led to a curriculum that is relevant for university courses at all levels. It was developed as an approach to build professional competence and aims to train professionals to be ethically responsible and socially committed in their careers.

The SAT also collaborated with the Mexican Institute of Public Accountants to draw up a Tax Training and Information Guide for the curriculum. The content is divided into units, each with a specific learning objective, and provides learning activities, teaching suggestions and a glossary of frequently used fiscal terms.

The course was piloted at the National Autonomous University of Mexico (*Universidad Nacional Autónoma de México*, or UNAM). Once the UNAM technical committee had reviewed the Tax Training and Information Guide to check that the contents conformed to the syllabus, the subject was added to the syllabus for the final semester of each degree course.

As soon it was included in the UNAM curricular programme, the SAT's 68 regional offices began to roll out the tax curriculum strategy across the nation, arranging support and collaboration agreements between the SAT and educational institutions in various regions. The public and private educational institutes which now offer the course include the *Instituto Tecnológico de Estudios Superiores* in Monterrey; the Mexican Institute of Public Accountants (*Instituto Mexicano de Contadores Públicos A.C.*) in Acapulco; the *Universidad Popular Autónoma del Estado de Puebla* and the *Benemérita Universidad Autónoma de Puebla*, in Puebla; and the *Universidad del Valle de México*. A partnership with the European Union's international programme EUROsociAL has supported these projects in Mexico.

The subject was initially designed to be taught on site, but can now also be accessed through distance learning. While it was originally conceived for accounting and administration undergraduates, it is now available for all university students, without requiring any prior tax knowledge.

The National Tax Education Programme involves two sets of public officials working together: 68 SAT officials and 68 public education officials. The SAT officials are

responsible for supervising the project’s design and operation across the country, and for reaching agreements with universities to include the tax training and information curricula in their study programmes. The role of the public education officials is to teach the tax curriculum at the various universities and institutions. All staff are subject to a permanent review process, as well as training courses to keep teachers up to date with regulatory tax amendments.

Source: (OECD, 2015^[15]), “Mexico: Teaching tax in higher education”, in *Building Tax Culture, Compliance and Citizenship: A Global Source Book on Taxpayer Education*, OECD Publishing, Paris.

Mexico City needs to ensure that these training programmes do not become a check-box exercise, by adopting an interactive approach where examples will have an impact on citizens’ integrity behaviour and anti-corruption culture. Mexico City could conduct surveys to monitor and evaluate the results of this training.

5.2.4. Mexico City could consider influencing citizens and private sector firms to act with integrity in interaction with public entities by piloting initiatives on behavioural science research.

Behavioural insights is an approach to policy making that embeds experimentation in the development of policies and regulations. It recognises that individuals do not behave as rational choice theory might suggest, and that public entities attempt to create evidence-based policies and interventions with a more realistic, and proven, understanding of human behaviour (OECD, 2017^[12]). Evidence from research in behavioral sciences, for example, indicates that factors such as demonstrating that most people perform a desired action, and using the power of networks, enabling collective action providing mutual support and encouraging peer-to-peer interaction, can influence an individual’s behaviour. This understanding of “actual human behaviour” could be considered by Mexico City to influence ethical decisions of its citizens and private sector firms in their interactions with its various government entities.

In addition to the recommended potential initiatives to target public officials, the SLAC-CDMX Citizen Participation Committee could also consider including measures for piloting and testing innovative measures in society. Citizens can be informed of integrity decisions taken in Mexico City in the action plan submitted for approval to the Co-ordination Committee and request that the Office of the Comptroller-General to oversee its implementation by the relevant ministries. Examples of this kind of initiative can be found in other countries and could include the following:

- *Including norm messages in letters sent to non-tax payers:* experiments have found that individuals are influenced by the actions of others around them. The Behavioural Insight Team in the United Kingdom conducted a series of randomised control trials to determine the impact of including social norm messages in letters to those who fail to pay tax. The trials found that including the phrase: “9 out of 10 people pay their tax on time. You are one of the few people who have not yet paid”, increased payment rates to 40.7% (Behavioural Insights Team, 2012^[16]).
- *Building “moral reminders” into key reporting processes:* as with using moral reminders to inform ethical decision making, moral reminders, such as requiring a signature boxes at the beginning of a property or car ownership tax declaration,

hotel rooms and goods and services taxes, as well as the acquisition of real estate property tax, can help prompt more vigilance against error or false reporting from the onset. In the United States, federal vendors who make sales through the Federal Supply Schedules are required to pay the industrial funding fee, which is calculated based on the fraction of the total sales made. To calculate the fee, vendors must self-report the quantity of their total sales. To increase compliance with self-reporting, the Government Services Administration (GSA) piloted an electronic signature box at the beginning of its online reporting portal. The pilot found that the median self-reported sales amount was USD 445 higher for vendors who signed at the top of the form. This translated into an extra USD 1.59 million in international finance flows paid to the government in a single quarter (Social and Behavioral Sciences Team, n.d.^[17]).

The sensitive areas where such interventions may be most needed should be identified by the Office of the Comptroller-General, which should provide this information to the SLAC-CDMX Citizen Participation Committee. The committee will determine the appropriate mechanisms to ensure citizens' participation in integrity preventive initiatives and propose to the Co-ordination Committee the most appropriate policy to be implemented by the relevant ministries (i.e. Finance and Social Development). Later, a series of pilot experiments could be conducted to ascertain the value of scaling up and expanding intervention. To be successful, these pilot projects should be based on a clear definition of the outcome. Further, full comprehension of the context in which the intervention is conducted will be required. It should also be tailored to the specific conduct that needs to be changed and be adapted to the outcomes of the pilot projects, following the practice of the United Kingdom's Behavioural Insight Team (Box 5.5).

Box 5.5. Good practices from the United Kingdom’s Behavioural Insight Team

The Behavioural Insights Team (BIT) has developed a methodology that draws on experience of developing major strategies for the UK Government, a rich understanding of the behavioural literature, and the rigorous application of tools for testing “what works”.

The EAST framework, which encourages policy makers to make behavioural interventions easy, attractive, social and timely, is at the heart of this methodology, but it cannot be applied in isolation from a thorough understanding of the nature and context of the problem.

The BIT has developed a more nuanced method for developing projects, with four main stages:

1. **Define the outcome:** Identify exactly what behaviour is to be influenced. Consider how this can be measured reliably and efficiently. Establish how great a change would be needed to make the project worthwhile, and over what length of time.
2. **Understand the context:** Visit the situations and people involved in the behaviour, and understand the context from their perspective. Use this opportunity to develop new insights and design a sensitive and practical intervention.
3. **Build your intervention:** Use the EAST framework to generate behavioural insights. This is likely to be an interactive process that returns to the two steps above.
4. **Test, learn and adapt:** Put the intervention into practice so its effects can be reliably measured. Wherever possible, BIT attempts to use randomised controlled trials to evaluate its interventions. These introduce a control group to help assess what would have happened if nothing had been done.

Source: (Behavioural Insights Team, 2012^[16]), “Applying behavioural insights to reduce fraud, error and debt”, www.behaviouralinsights.co.uk/wp-content/uploads/2015/07/BIT_FraudErrorDebt_accessible.pdf, accessed 3 October 2016.

5.3. Educating the new generation to take a stand against corruption

The previous section focused on the tools Mexico City could use to instil a culture of integrity in society, while this section will review inspiring a culture of integrity amongst children and youth. Youths go through significant cognitive development between the ages of 10-12, when they develop a respect for rules and the construct of “justice”. They also begin to experience intense emotions, such as shame, pride, guilt and remorse, which influence the way they think and act (Macera, 2014^[18]). Introducing a generation to an awareness of the negative effects of corruption at an early age can help future generations build a society with values of integrity that clearly identifies corruption as a negative behaviour. Integrity education can be integrated into the primary and secondary school curriculum, providing children with the skills and knowledge they require to face the challenges of society. Indeed, educating youth to be critical of corruption is, in the long term, a more cost-efficient approach to reducing corruption than penalties and monitoring

(Hauk and Saez-Marti, 2002^[19]). Education campaigns work if government investment in public education is great enough during the campaign and the campaign lasts long enough. Both conditions seem to have been essential in the successful Hong Kong initiative (see Box 5.3).

5.3.1. The SLAC-CDMX Co-ordination Committee could include in its action plan a recommendation to develop content and didactic tools for ethics education.

Including a requirement for integrity education into the action plan of the SLAC-CDMX is a good way to mainstream integrity and anti-corruption lessons into Mexico City educational curricula at the elementary, secondary and high school levels. Mexico City could consider making integrity education a component of the local anti-corruption strategy, which can support its inclusion in the curriculum (Box 5.6).

Box 5.6. Changing attitudes towards corruption through education in Lithuania

Article 10 of Lithuania’s Law on Corruption Prevention stipulates the inclusion of anti-corruption in the curricula of schools of general education. As a result, as part of the Lithuania’s 2002 National Anti-corruption Programme, anti-corruption education was identified as a key priority. Specifically, the Programme committed to “by various means promoting intolerance of the manifestation of corruption”. Close co-operation was established with non-governmental organisations and the media for incorporating anti-corruption programmes in the education system. The long-term strategy for incorporating anti-corruption curriculum into the school system was “to build public intolerance toward corruption and promote a new national mind-set that would influence all areas of Lithuanian life”. Working with the Modern Didactics Centre (MDC), a centre of excellence for curriculum and teaching methods and a select group of teachers, the anti-corruption body (the Special Investigation Service or STT) integrated anti-corruption concepts into core subjects like history, civics and ethics. The project was also supported by Lithuania’s Ministry of Education and Science and Ministry of Foreign Affairs, as well as Transparency International – Lithuania, the Open Society Fund – Lithuania and the Royal Danish Embassy.

The working group worked on three key challenges: 1) to find the balance between lecturing on corruption and engaging the students in meaningful dialogues and projects that would make the learning more applicable to their daily lives; 2) to address the problem of cynicism and frustration that could arise amongst students learning about anti-corruption whilst experiencing it as the social norm; and 3) to engage students in such a way to empower them to see corruption as something they could have a positive impact on.

From 2002 to 2008, the MDC and the STT collaborated on several approaches to the anti-corruption education. A team of teachers with experience in grades 5-12 helped develop and implement each strategy on a trial basis. These teachers came from a variety of disciplinary backgrounds and regions in Lithuania, to ensure a representative sample. Instead of focusing on narrowly defined anti-corruption concepts, the resulting curriculum incorporated the broader concepts of values and ethics, looking at issues such as fairness, honesty and community impact. The focus of the curriculum was on students learning why corrupt activities were wrong and how ethical behaviour could be applied in their personal lives to address these dilemmas.

The curriculum was initially introduced in a handful of schools, but it has been expanded, even though it is still an optional part of the curriculum. The curriculum has expanded from classroom-based learning to engaging students with local anti-corruption NGOs and municipal governments, to apply their knowledge in a tangible way. In one Lithuanian city, students were introduced by the local anti-corruption adviser to areas at risk for corruption within the local administration and the municipality's plans to address these risks. The students were then involved in inspecting employee logs, just as a government official would, to check for irregularities and potential areas of abuse of public resources, such as government vehicles and fuel cards.

In a poll on the goals of the anti-corruption programme, an NGO devoted to promoting civic activity, the Civil Society Institute, found that Lithuanian high school students were more willing than adults to organise activities in response to problems their society faced. A study conducted by the institute in 2012 found that on average, 33.6% of students were willing to promote civic activity, as compared with 13.6% of adults. These results are promising, as the rise in young people's attitudes towards engagement in society is a positive trend for changing behaviour.

Sources: (Modern Didactics Centre, 2004^[20]), "Integrated Programme of Anti-corruption Education for a School of General Education"; (Gainer, 2015^[21]) *Shaping Values for a New Generation: Anti-corruption Education in Lithuania, 2002–2006*.

Some aspects of civic culture are addressed in the regular curriculum in Mexico City. The state assignment (*asignatura estatal*), in secondary education, focuses on history, geography, cultural heritage, environmental education for sustainability, strategies to help students to face problems and situations of risk, and language and culture of indigenous people. In the curriculum component that focuses on teaching strategies to help students to face problems and risks, schools include subjects such as democratic citizenship. In the context of the legality culture, students are taught how to exercise their rights, respect others, fulfil their responsibilities, develop critical thinking, participate actively in subjects of common interest and establish ways of living in an inclusive and equitable environment.

The current structure of the educational curriculum in Mexico City will change after federal educational reforms, which give more autonomy to the states to set curriculum. In this new context, Mexico City could consider including lessons on integrity and anti-corruption in the curriculum for its basic and secondary schools, using it as a key tool in fighting corruption.

Since 2013, a pilot programme namely Project for School Co-existence (*Proyecto a Favor de la Convivencia Escolar*, or PACE) was introduced in every state in Mexico, including Mexico City, and has been upgraded as the National School Coexistence Programme (*Programa Nacional de Convivencia Escolar*, or PNCE) (Secretaría de Educación Pública, 2014^[22]). The PNCE programme aims to cultivate rights and values to develop a civic culture based on respect for diversity and promotes social coexistence in a healthy and harmonious way, in schools and more broadly in society (Secretaría de Educación Pública, 2017^[23]). The PNCE's core components seek to develop social and emotional skills; strengthen self-esteem; the assertive management of emotions; appreciation of diversity; respect for the rules; the ability to make agreements and decisions; peaceful resolution of conflict; and the exercise of values for coexistence (OECD, 2017^[2]). Within this core component framework, the following six learning blocks have been developed by the federal Education Ministry:

- I know myself and like myself the way I am.
- I recognise and manage my emotions.
- I can live with others and I can respect others.
- The rules of living together in harmony in society.
- Managing and resolving conflicts.
- All families are important.

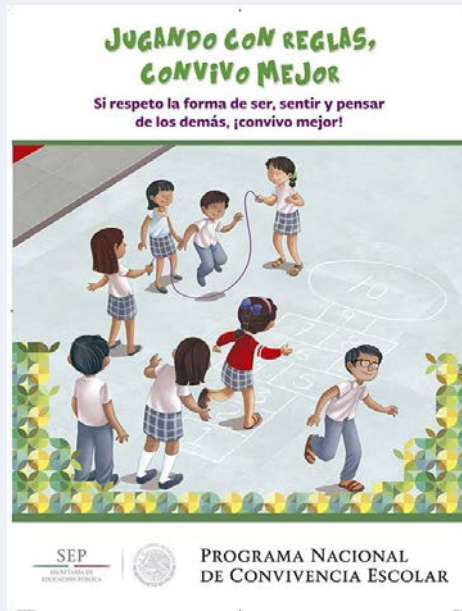
Each learning block involves a series of activities and reflection questions intended to teach children the skills to live together peacefully. One of the programme's learning blocks includes activities to engage students in critical analysis of the role of rules in society and to identify solutions to solve problems they observe in their classroom and school

(see Box 5.7 for an overview of materials and activities developed for students grades three and six). This learning block involves teaching students how to engage in constructive debate when they disagree with the rules.

The PNCE programme includes training for teachers, equipping them with the skills to deliver curriculum in the classroom, as well as materials for parents to support the lessons students learn in the classroom. These materials, which include posters, short videos, activity books and teaching companions, for students, teachers and parents, are available online, increasing access to resources for both schools and students. Mexico City could consider using free video clips on the kambes.com website created by a Mexican non-profit organisation. This includes more than 900 video clips for a variety of audiences starting at 6 years old. Based on the results of this programme, Mexico City could ask the SEP to provide funds for its full implementation.

Box 5.7. Building Block 4 for the PNCE programme

Figure 5.3. School poster for Building Block 4 (rules of living together in harmony in society)



Source: Mexico’s Government website (2016), www.gob.mx/escuelalibredeacosos/descargables/1111/i.

Activities for students in grade 3 on rules for living together in harmony in society.

Learning outcome	Activity
<p>Lesson 1: A world where rules are not followed</p> <p>The student will recognise the role of rules and how they encourage coexistence.</p>	<p>Students imagine a game in which there are no rules and discuss together what would happen.</p>
<p>Lesson 2: Let’s investigate together to live in peace</p> <p>The student will identify some problems of coexistence in the school, and propose alternatives to help solve them.</p>	<p>Students identify problems in the school and brainstorm solutions to these problems.</p>
<p>Lesson 3: My voice counts and so do others’!</p> <p>The student will understand that listening to the opinions of his peers and complying with the rules improves coexistence in the school.</p>	<p>Students identify problems they see in their school.</p>
<p>Lesson 4: Taking action together</p> <p>The student will propose actions that allow to them know and respect the rules to improve school coexistence</p>	<p>Students organise and participate in a school assembly to jointly identify solutions to these problems.</p>

Source: (OECD, 2017_[12]), *OECD Integrity Review of Mexico: Taking a Stronger Stance Against Corruption*, OECD Public Governance Reviews, OECD Publishing, Paris, p. 110.

Based on the positive results of federal initiatives to gradually incorporate education for integrity in its integrity strategy, the Office of the Comptroller could consider recommending to the SLAC-CDMX Co-Ordination Committee a co-operation agreement between the Ministry of Education of Mexico City and the Secretariat of Public Education (*Secretaría de Educación Pública*, or SEP) to develop content and didactic tools for ethics education that could be used for the future strategy of education for integrity.

While reference to the negative influence of corruption are mentioned in the various initiatives undertaken at the federal level that are part of the current curriculum, the focus was not on the development of integrity knowledge, skills, values and attitudes for a successful society, since it was not considered a building block for the federal public integrity strategy. Activities such as those identified in the learning block to help students constructively identify and solve problems in their community are key skills that can be translated into active citizenship as they become adults (OECD, 2017^[2]). Mexico City thus needs to consider equipping children with the skills to think about problems and develop solutions together. This may result in a future stakeholder engagement in solving complex societal problems, including corruption.

Most of the initiatives that are part of the educational curriculum focus on preventing violence in the school system and society and not on preventing corruption, but they are creating an environment in which integrity can be discussed openly. In working towards an inclusive, peaceful classroom environment where respect and fairness are the norm, young people will be more likely to internalise the values of integrity.

To reduce tolerance for corruption, the OECD has recommended that the PNCE programme ensure that lessons and activities on integrity and anti-corruption are included; and that the basic curriculum, teaching manuals and textbooks refer to corruption as a problem that needs to be solved. At the secondary level, activities seeking to engage students in discussion, debate and understanding the negative impact of corruption and integrity violations on a successful society need to be part of the PNCE activities. Mexico City could consider international good practices, lessons learned and activities successfully implemented to develop knowledge, skills, attitudes and values to resist corruption. This educational programme can help Mexico City's youth identify ethical behaviour and assume their responsibility for it, understand how to resolve ethical dilemmas, and integrate integrity into their everyday activities. Other aspects that could be considered include elements raised in extracurricular activities of examples of the negative effects of cheating, misusing school property and stealing, to help students think about the impact of integrity violations. The educational programme should include activities that invite students to apply their knowledge in classroom activities (see Box 5.8 and Box 5.9).

Box 5.8. Model Student Ethics Programme in Miami-Dade County Public Schools

In the United States, where education is a responsibility of the states, the state of Florida has regulated a state-wide requirement to educate students in character education (e.g. values education).

Created in 1996, the Miami-Dade Commission was entrusted with four key responsibilities, one of which was education and community outreach. The Commission designed, implemented and funded the Model Ethics Course. With support from principals, teachers and the school district, the programme was launched in three public high schools in the 2001-2002 school year. Schools in the Miami-Dade district have the option of using the programme as their character education curriculum.

The key objectives of programme are to teach students:

- the process of resolving ethical dilemmas;
- elements of critical and analytical thinking, and how to apply these elements in daily life;
- the art of negotiation, mediation, conflict resolution and consensus-building skills (through Mock Public Hearings);
- help students recognise and apply different approaches to ethical decision making.

The programme consists of eight modules, delivered over eight months. The modules are integrated into social science/government classes twice a month, meaning that students receive 4 hours per month of instruction, or a total of 32 hours.

The programme is administered by the Outreach and Training Specialists at the Ethics Commission, whose trainers are responsible for preparing the curriculum (e.g. lectures, case studies) for the programme. The course consists of two components, a lecture component and a role-playing case study. The beginning of the course involves lectures on various topics – such as problem-solving, decision-making and the major ethical theories. The second half of the course includes case studies known as Mock Ethics Trials. Students are randomly selected to take on different roles (e.g. the role of the defendant, defence attorney or prosecutor) and debate ethical case studies.

During each programme, five students are randomly selected to serve as members of the Ethics Commission for the entire module. In addition, other students are randomly selected to participate in the case studies, which involve role-playing (public hearing before the Ethics commission), discussion/debate and a decision being rendered by the Ethics Commission.

Source: (Federal Bureau of Anti-corruption, 2013^[24]), “Anti-corruption training for students of 14-18 Years”, presentation to the 4th UNCAC Working Group 26-28 August 2013.

Another activity that could be included in the future educational initiative for youth in Mexico City is to involve them in the Local Citizen Participation Committee. Measures in the action plan for the SLAC-CDMX could set out a sub-committee for youth, as proposed at the federal level by the OECD (OECD, 2017^[2]). Mexico City could consider

involving youth in developing policies and ensuring that the SLAC-CDMX activities are aligned to address the key problem areas. Following the proposed strategy at the federal level for ensuring youth participation in these committees, Mexico City could open the participation to any interested secondary school student. Leadership and the selection of these participants could be through a contest inviting those interested to submit an essay, poster or audiovisual presentation on a topic related to anti-corruption and integrity, for instance. The participants in the committee could be chosen from the top five submissions voted by members from the youth committee and members of the Citizen Participation Committee.

5.3.2. Mexico City could consider increasing resources for extracurricular activities and programmes to include content that explicitly addresses integrity and anti-corruption.

Mexico City has established various extra-curricular activities focusing on developing knowledge, attitudes and skills in children and youth, to face the different challenges in their life and receive a better education for life. Initiatives have been introduced by the Ministry of Education, the Office of the Comptroller and the Office of the Prosecutor General of Mexico City (*Procuraduría General de Justicia de la Ciudad de México*) to explain to children and youth what corruption is and how to fight it. All of the materials for these programmes are disseminated on the anti-corruption website managed by the Office of the Comptroller.

Since 2013, the Office of the Comptroller has introduced various initiatives to raise awareness and promote civic education on public integrity. These include the programme Anti-corruption for children (*Anticorrupción para Peques*), the “Growing up without corruption” initiative (*Creciendo sin corrupción*), and the *Chiquicontraloría* programme.

The first programme was launched to develop a website that children can access and find cartoons, games and basic information on corruption and misconduct, such as bullying, that affect their life, as well as information on their rights and obligations. This website also contains information on public safety and justice administration.

The Growing Up Without Corruption initiative (*Creciendo sin corrupción*) was created to explain what corruption is, how to avoid it, the type of corruption and applicable penalties, which government entities in the city fight corruption, the role of the Office of the Comptroller and its public servants. This initiative also provides example of corrupt actions and the appropriate actions to avoid being a recidivist.

The *Chiquicontraloría* also seeks to promote positive social participation of children in promoting civic culture in the City, through recreational activities focusing on the respect of the rule of law and values for a better co-existence in society. It aims to introduce children to the concepts of transparency, accountability and combat against corruption. As structured, however, it does not conduct children to analyse their behaviour and environment to develop critical thinking, learn from past experiences and develop solutions to fight corruption in their environment.

The activities associated with each of the above programmes are accessible through the anti-corruption portal www.anticorrupcion.df.gob.mx, managed by the Office of the Comptroller-General.

The Office of the Prosecutor General of Mexico City has a programme for children on its website, *Procura Peques*, which includes entertaining videos and other activities to

familiarise them with the work the office does and to learn about other subjects concerning law enforcement, including the protection of children's rights.

In addition to these initiatives and to reach a higher number of children, the Office of the Comptroller signed a co-operation agreement with the Ministry of Education of Mexico City (*Secretaría de Educación de la Ciudad de México*) to organise the first circuit of *SaludArte, Guardianes de los Valores. ¡Formando Chiquicontralores!*. This consists of a series of blocks of play activities to instil the values of friendship, solidarity, honesty, justice, respect and equality. This initiative launched on 26 November 2016 at the Jesús Martínez Palillo Stadium, and covered a population of 3 000 primary school students enrolled in the SaludArte Services Programme. To give continuity to these activities, the Office of the Comptroller is developing a training plan for the Chiquicontraloría initiative, aiming to give children can apply the knowledge acquired through supervision and monitoring actions in their immediate environment.

The Ministry of Education of Mexico City launched the SaludArte programme, initially as a strategy to fight obesity in children in the most vulnerable communities. It was transformed into a broad strategic initiative for the development of children, as detailed in Box 5.9, as a result of the challenges observed in the community of the target population of 18 000 children. Workshops were organised to focus on seven values rather than rules, giving tools to children to deal with conflicting values and to take independent decisions after identifying solutions to solve problems in their communities, classrooms and schools.

The results of this programme have been monitored, and positive changes have been reported in children's behaviour, and in that of their parents and households. This could be extended to more students at public schools in other territorial demarcations (*delegaciones*) than the ones already identified. Indeed, Mexico City could consider implementing a similar experience in territorial demarcations where there is high perception of corruption.

Box 5.9. The SaludArte Programme: An initiative to educate children in vulnerable zones of Mexico City

SaludArte was started in 2013, as an extracurricular activity to fight obesity and improve the health of kids living in vulnerable zones of Mexico City. It evolved into an initiative to educate kids for life, built as a complementary education programme for children in 110 schools in Mexico City. The programme focuses on the development of socio-emotional abilities through three aspects: enhancing the capacity in schools that participate in SaludArte, working with children on nutrition and artistic expressions, involvement in family to create a safe and peaceful scholarly environment. All these aspects are developed through such activities as dance, music, arts and yoga.

This programme has been intensively monitored not only by Mexico City but other foreign institutions. As a result, the component for building socio-emotional ability was reoriented to give children tools to help them manage different situations they will face in life and living with others. The programme has since started targeting how to resolve conflicts and ensure a peaceful environment for children. The evolution of well-being of children in their immediate environment, their interactions with others and their self-esteem are now reviewed. The resilience of children was also measured, to observe how

they face various situations in their daily life (ability to ask for help, to apologise, maintain perseverance in frustrating situations). The programme launched in 110 schools was expanded to 120 in 2017, reaching 41 000 kids, and will train facilitators from the children's communities.

Figure 5.4. Design of the SaludArte Programme



Source: Official Journal of Mexico City (2017), "Rules of operation of the Saludarte programme for the year 2017".

A second initiative, Learning to Live Together (*Aprendiendo a Convivir*), was introduced by the Ministry of Education of Mexico City at the primary level (elementary school). It seeks to prevent and resolve the problem of violence in schools, encouraging students to become agents of change and to participate actively in building a culture of peace through educational activities. In the last quarter of 2015, some educational activities were organised and 109 parents and 116 children participated in workshops in schools to promote peaceful coexistence in schools. The goal is to help them move forward from a lack of tolerance to a collective commitment to respect differences, and to build new

ways to live together in a peaceful environment where human rights are respected. Under one of the activities of this initiative, 16 authorities from Mexico City: the Integral Development of Family (*Sistema para el desarrollo integral de la familia de la Ciudad de México*, DIF-CDMX), the Youth Institute (*Instituto para la Juventud*, INJUVE-CDMX), Women's Institute (*Instituto de las Mujeres de la Ciudad de México*, INMUJERES-CDMX), the Council to Prevent and Eliminate discrimination, (*Consejo para prevenir y eliminar la discriminación*, COPRED-CDMX) and the Human Rights Commission (*Comisión de derechos humanos de la Ciudad de México*, CDH-CDMX) visited various schools to reach a larger group. Similar activities have been also introduced at the secondary level, as well as a workshop on how to live together, focusing on developing skills to manage difficult situations.

While there is a budget for each of these initiatives to raise awareness on children and youth population in Mexico City, these programmes are not widely disseminated. It is recommended that the scope of, for instance, the SaludArte programme be increased, to cover a larger group of children not only in areas at risk but in the territorial demarcations (*delegaciones*) with a high level of corruption. Appropriate funds should be made available for this. The Office of the Comptroller, vested under the amendments made to the Organic Law for the establishment of the SLAC-CDMX, could propose to the Co-ordination Committee that this subject be included in its action plan to fight corruption.

5.3.3. The Office of the Comptroller could recommend to the Co-ordination Committee that the Ministry of Education develop training programmes for teachers on integrity and anti-corruption.

Teacher training on anti-corruption and integrity concepts is an essential component of successful curriculum reform. Lessons and activities for students from the early years and into young adulthood are vital for integrity or anti-corruption initiatives. Teacher training can equip trainee and experienced professionals with the skills, knowledge and confidence to counter contemporary societal challenges, such as corruption and integrity (Starkey, 2013_[25]). An effective teacher training programme can transmit knowledge of normative framework and instil in teachers the notion of moral obligation (Starkey, 2013_[25]).

Just as at the federal and state level, Mexico City has a tradition of teacher training. Initial preparation for pre-school, primary and secondary teachers is provided by higher education institutions known as teachers' colleges (*Escuelas Normales*). Students with bachelor degrees can apply through the Federal Administration of Educational Services of Mexico City (*Administración Federal de Servicios Educativos en el Distrito Federal*, or AFSEDF) to one of the six public teaching schools and institutes or to 17 private schools offering bachelor degrees for basic education (pre-school, primary and secondary schools).

The Office of the Comptroller, which is responsible for drafting general policy for the public administration in Mexico City (see Article 34, clause LI of the Organic Law of the Public Administration of Mexico City), could recommend to the SLAC-CDMX Co-ordination Committee that the Ministry of Education develop an official course for teachers at all educational levels, focusing on enhancing integrity in the public service. The Office of the Comptroller could propose to the Co-ordination Committee that agreements be signed between the Ministry of Education of Mexico City and the School of Administration to build, as recommended at the federal level, a training course that includes modules introducing teachers to the basic concepts of corruption and integrity, as

well as strategies for teaching anti-corruption and integrity in schools (see Box 5.10 on Lithuania).

A similar exercise could be conducted to draft an educational programme for trainee teachers. It could include a refresher of the previous training received to obtain their authorisation to teach in primary and secondary schools. This training course could focus on key challenges and good practices on: how to effectively disseminate the modules; the most receptive methodology for students learning process; and innovative ways to encourage students to use their knowledge to solve integrity issues. Continuing training programmes for teachers could also take the form of courses taken during teacher trainee programmes and professional training, and seminars and resource kits including videos prepared by government institutions and/or civil society actors. Mexico City could consider using the teacher training programmes offered under its continuing education programme (*Modelo de Operación del Programa de Formación Continua para docentes de Educación Básica*) set out in accordance with the Law on Professional Teaching Service.

Box 5.10. Preparing teachers to teach anti-corruption in Lithuania

As part of anti-corruption curriculum development in Lithuania, two project goals were identified to help teachers introducing anti-corruption content in their lesson plans: 1) to prepare an in-service training programme of anti-corruption education; and 2) to prepare a team of trainers to consult with and train other teachers.

In February 2004, the project team prepared a training course for teachers, as well as an in service training programme. From March to August 2004, a series of workshops and training seminars were held for teachers, addressing the following themes:

- critical thinking methodology for anti-corruption education
- foundations of adult education
- principles of strategic planning
- development of in-service training programme for anti-corruption education.

From September to December 2004, the in-service training programme was prepared and piloted in the regions. The results of the pilot project were used to draft updates to the programme. The resulting programme, Anti-corruption Education Opportunities for Secondary School, is part of the permanent training offered by the Modern Didactics Centre, a centre of excellence for curriculum and teaching methods. The programme aims to provide teachers with information about corruption and anti-corruption education, and to encourage them to apply elements of anti-corruption education in their lesson planning and extra-curricular activities.

Source: (Modern Didactics Centre, 2004^[26]), “Education against corruption”.

The current continuing education programme includes three objectives: 1) improving the professional teaching service; 2) strengthening the school; and 3) adhering to national educational priorities, with seven associated training paths (Table 5.1). The third objective focuses on training teaching staff in pertinent and socially relevant priority issues, such as inclusion and human rights (Secretaría de Educación Pública, 2016^[27]).

The recommended continuing education training on anti-corruption could be included under this latter objective.

Table 5.1. Continuing education programme for teachers

Objectives of the strategy	Training paths
Improving the professional teaching service	<ul style="list-style-type: none"> • Continuing education for the required professional profile. • Developing skills for the use of information and communications technology in collaborative work.
Strengthening the school	<ul style="list-style-type: none"> • Training for assistant support staff (SATE programme) • Development of leadership skills and school management. • Skills development for internal evaluation. • Mastering the disciplinary content.
Adhering to national school priorities	<ul style="list-style-type: none"> • Update on the new educational model and institutional programmes for inclusion and equity.

Source: (Secretaría de Educación Pública, 2016^[27]), “*Modelo de Operación del Programa de Formación Continua para docentes de Educación Básica*”, Ministry of Public Education.

Proposals for action

A whole society approach needs to be introduced in Mexico City integrity strategy to change institutional and individual behaviour towards corruption and to ensure the effectiveness of the measures taken to reduce corruption in its public sector. The following measures could be considered:

Instilling a shared sense of responsibility on integrity in society

- Mexico City should encourage shared responsibility for integrity among citizens and the private sector by awareness-raising activities seeking their active participation to reduce tolerance for corruption and to enforce the new standards of conduct espoused by its public officials and organisations.
- Mexico City’s experience in working with civil society organisations could be leveraged to include the whole society approach, as component of the Local Anti-corruption System. Recognising its vital role can help instil a culture of integrity and fighting corruption.
- In designing its anti-corruption strategy, the Local Anti-corruption System should include tailored public awareness campaigns and training programmes for citizens. Care should be taken not to send too extreme a message, but to generate engagement that can be translated into action.
- These public campaigns could be complemented by training programmes for citizens, focusing on key areas susceptible to fraud or corruption. The SLAC-CDMX Citizen Participation and Co-ordination Committees could recommend that the Office of the Comptroller, in co-ordination with the School of Public Administration, develop training that would focus on the impact corruption and violations of regulations can have on society, and on their role on preserving and enhancing public integrity.

- Mexico City could influence citizens and private sector firms to act with integrity in their interactions with public entities, by piloting initiatives on behavioural science research consisting of including moral messages sent to taxpayers, moral reminders to inform ethical decision making at the beginning of standard transactions with the government, etc. Sensitive areas where such intervention is most needed could be identified by the Office of the Comptroller-General and submitted to the SLAC-CDMX Committee.

Educating the new generation to combat corruption

- Since the proposed educational system reform will give states more autonomy over the content of the basic and secondary curriculum, the SLAC-CDMX Co-ordination Committee could include in its action plan a recommendation to the Ministry of Education of Mexico City to develop content and didactic tools for ethics education as a component of the new public integrity strategy.
- Mexico City could consider the positive results of federal initiatives such as the PNCE, to phase in education for integrity in the curriculum. Other didactic tools could also be considered, including free video clips available from the website of a non-profit organisation that produces videos targeting a variety of audiences starting at age 6. This could be added to existing materials and resources used by this programme.
- The Office of the Comptroller-General could recommend to the Co-ordination Committee a co-operation agreement between the Ministry of Education of Mexico City and the Ministry of Public Education to develop the content and didactic tools for ethics education, which could be included in the SLAC-CDMX strategy.
- Mexico City could consider also good practices, lessons learned and activities successfully implemented to develop skills, attitudes and values to resist corruption. Children and youth could be taught to identify both integrity and corruption, assume their responsibility for integrity and understand how to resolve ethical dilemmas.
- Mexico City could scale up resources for the implementation of current extracurricular activities and programmes, to include content that explicitly addresses values for integrity and anti-corruption and consider the success of the newly introduced initiative such as the programme Anti-corruption for children.
- Mexico City could consider giving continuity to the activities of SaludArte, Guardianes de los Valores, and Chiquicontralores activity, so children can apply the knowledge acquired in their immediate environment.
- Mexico City could consider expanding the programme to children living in territorial demarcations with a high level of corruption.
- Finally, the Office of the Comptroller could recommend to the Co-ordination Committee that the Ministry of Education of Mexico City develop training programmes for teachers on integrity and anti-corruption, as a complementary measure to promote integrity.

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Chapter 6. Improving internal control and risk management in Mexico City

This chapter assesses Mexico City's internal control and risk management frameworks and draft internal control legislation against international models and better practices. It provides an overview of the strengths and weaknesses of the internal control and risk management framework in Mexico City, and how this could be reinforced to align with good OECD country practices in the areas reflected in the OECD 2017 Recommendation of the Council on Public Integrity.

6.1. Introduction

An effective internal control and risk management framework is essential in public sector organisations to safeguard integrity, enable effective accountability and prevent corruption. This framework should include internal control measures, risk management and internal audit. The OECD's 2017 *Recommendation of the Council on Public Integrity* encourages establishing an internal control and risk management framework that includes:

- a **control environment** with clear objectives that demonstrate managers' commitment to public integrity and public service values, and that provides a reasonable level of assurance of an organisation's efficiency, performance and compliance with laws and practices;
- a strategic approach to **risk management** that includes assessing risks to public integrity, addressing control weaknesses, as well as building an efficient monitoring and quality assurance mechanism for the risk management system;
- **control mechanisms** that are coherent and include clear procedures for responding to credible suspicions of violations of laws and regulations, and facilitating reporting to the competent authorities without fear of reprisal (OECD, 2017^[1]).

An effective internal control and risk management framework includes policies, structures, procedures, and processes that enable an organisation to identify and appropriately respond to risks.

Mexico City faces a number of challenges in the areas of internal control and risk management. These include: an environment where no comprehensive internal control legislation is currently in force (although a bill was recently adopted in the package of secondary laws); limited or outdated guidelines for staff on how to implement internal control measures; a framework that blurs areas of responsibilities, with auditors taking responsibility for internal control when senior management should be taking ownership; the absence of a systematic risk management framework; a culture where integrity is not strongly supported or promoted, because public officials have not brought in the initiatives they have launched; weak internal control measures; and an internal audit system where the independence of the Comptroller-General and the processes for audit planning and following up on audit recommendations could be strengthened.

Similar to the federal Organic Law for the Federal Public Administration (*Ley Orgánica de la Administración Pública Federal*) – which is part of the broader National Anti-corruption System, Mexico City's draft legislation contains information on internal control and audit, and transparency. Article 3 of the draft law states: "The functions of auditing, internal control and other interventions shall be exercised under the principles of ethics, austerity, moderation, honesty, efficiency, effectiveness, economy, rationality, transparency, openness, accountability, citizen participation, accountability and will be executed in accordance with the guidelines that are issued for that purpose". It would be beneficial to ensure that the related guidelines are consistent with the federal law and international better practices for internal control and audit activities, such as the "three lines of defence" model (outlined in the following section).

6.2. Establishing an effective internal control framework in Mexico City

6.2.1. Mexico City could draft a strategy for communications and capacity building to publicise the new guidelines for internal control, audits and interventions in public administration.

Mexico City has launched its own anti-corruption system through the Decree by which various provisions of the Organic Law of Public Administration of the Federal District are reformed and added (*Decreto por el que se reforman y adicionan diversas disposiciones de la Ley Orgánica de la Administración Pública del Distrito Federal*) published in the Official Gazette of Mexico City on 1 September, which gives the Comptroller-General of Mexico City (*Contraloría General*) a prominent role in internal control and audit as part of the anti-corruption system. Officials indicated that they have already had some positive results from their internal control system, with some assets and funds recovered and the government using recovered funds for designated programmes.

Mexico City's internal control framework is regulated by Articles 105, 106, 108 and 110-113 of the Internal Regulation of the Public Administration of the Federal District (*Reglamento Interior de la Administración Pública del Distrito Federal*) and includes both vertical and horizontal co-ordination mechanisms. The Internal Regulation provides for auditors from the Comptroller-General of Mexico City to be attached to municipal public institutions. Only 28 of the 45 government entities have internal control units, and half of these internal control units have a complaints division that performs audits, resolves complaints and substantiates administrative or disciplinary proceedings. The other 14 internal units transfer files to the Directorate of Legal Affairs and Responsibilities if they discover any administrative irregularities in performing audits. The 17 public entities with no internal control units are assisted by the Directorate of Internal Control Units in Entities (*Dirección General de Contralorías Internas en Entidades*) to which cases of administrative irregularities are handed off. The Comptroller-General of Mexico City undertakes and oversees internal audits in accordance with a range of standards and guidelines, as outlined in Annex 6.A.

Officials indicated that the internal control system is established separately in each agency. In September 2017, a decree was passed issuing the Law on Audit and Internal Control of the Public Administration of Mexico City (*Ley de Auditoría y Control Interno de la Administración Pública de la Ciudad de México*). This assigns responsibilities to designated officials in the executive branch for internal control, risk management, and corruption and fraud. The Law modifies the allocation of responsibilities. Section 5 of this bill requires Mexico City government entities to adopt an internal control system that includes plans, methods, principles, norms, procedures and mechanisms of verification and evaluation on internal control. The guidelines established for staff on how to execute these new legislative requirements appear to be clear and consistent. On 8 January 2018, the guidelines for Audit, Internal Control and Interventions of the Public Administration of Mexico City (*Lineamientos de Auditoría, Control Interno y de las Intervenciones de la Administración Pública de la Ciudad de México*) were published in the *Official Gazette* of Mexico City.

The purpose of the Audit Guidelines is to regulate the planning and execution of internal audits, and the deadlines, procedures and forms that must be observed in practice. They are mandatory for the Secretariat of the Office of the Comptroller-General of Mexico City and its administrative units when carrying out internal audits.

The Internal Control Guidelines regulate the activities for the implementation and application of internal control. It also establishes the functions, activities and operations as well as the techniques and methods to be used for internal control within the Secretariat of the General Comptroller's Office of Mexico City and its administrative units, as well as in the delegations or mayor's offices, dependencies, parastatal entities and decentralised bodies of the public administration.

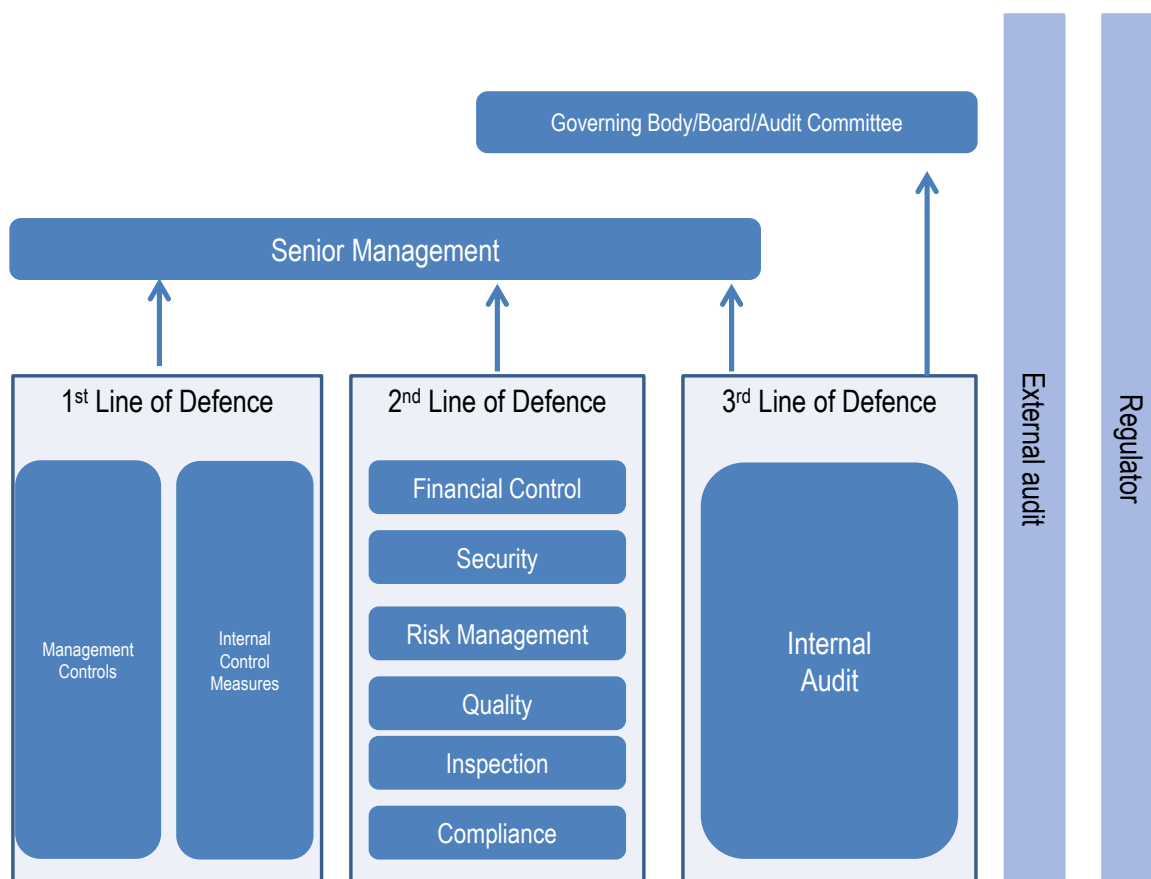
Lastly, the Guidelines for the interventions of the Public Administration of Mexico City refer to the visits, inspections, advisory services and other activities requested by the Secretariat of the Comptroller-General's Office or its administrative units for special reviews, verifications and operations.

6.3. Adopting the “three lines of defence” model

6.3.1. Mexico City could apply the principles of the “three lines of defence” model in refining the internal control framework.

The leading fraud and corruption risk management models used in OECD member and partner countries stress that the primary responsibility for preventing and detecting corruption rests with the staff and management of public entities. Such corruption risk-management models often have similarities with the Institute of Internal Auditors' (IIA) “Three Lines of Defence” Model (Figure 6.1).

Figure 6.1. The “Three Lines of Defence” Model



Source: IIA (2013), “IIA Position Paper: The Three Lines of Defense in Effective Risk Management and Control”, Institute of Internal Auditors, Altamont Springs, Florida, p. 2, <https://na.theiia.org/standards-guidance/Public%20Documents/PP%20The%20Three%20Lines%20of%20Defense%20in%20Effective%20Risk%20Management%20and%20Control.pdf>.

The first line of defence is operational management and personnel. Those on the frontline naturally serve as the first line of defence, because they are responsible for maintaining internal controls and for executing risk and control procedures on a daily basis. Operational management identifies, assesses, controls and mitigates risks, guiding the development of internal policies and procedures and ensuring that activities are consistent with goals and objectives.

Senior managers are primarily responsible for managing risk and implementing internal controls, but all officials in a public organisation – from the most senior to the most junior – can play a role in identifying risks and deficiencies and ensuring that internal controls address and mitigate these risks. Every staff member should be encouraged to help develop better systems and procedures that enhance the organisation’s integrity and help it to fight corruption.

The second line of defence includes the next level of management, those responsible for overseeing delivery. These are responsible for establishing a risk management framework, monitoring, identifying emerging risks, and regular reporting to senior executives. The third line of defence is the internal audit function. Its main role is to provide senior management with independent, objective assurance over the first and second lines of defence arrangements (IIA, 2013^[2]).

The external audit office and external regulators provide additional layers of defence. Although not officially part of the three lines of defence model, they are essential elements of the overall accountability and anti-corruption framework in the public sector.

Mexico City has elements of the three lines of defence model in its framework, but responsibilities overlap and the lines of defence are blurred. The Comptroller-General, for example, is responsible for internal controls as well as conducting and reviewing internal audit reports. This blurs the lines of defence, since auditors should not be put in the position of auditing internal controls that they themselves have implemented – since this would present a conflict. Mexico City could consider applying the principles of the three lines of defence model as it refines its internal control framework. This would ensure that responsibilities are appropriately separated and that management takes greater ownership over the everyday implementation of internal controls and the management of risk. The evolution of the French internal control system, which focuses on managerial responsibility, may provide some useful insight, as illustrated in Box 6.1.

Box 6.1. The French internal control system: Basic elements

In 2006, the entry into force of the Organic Law Governing Budget Laws (*La loi organique relative aux lois de finances*) of 1 August 2001 offered an opportunity to rethink the management of public expenditure in France. It was accompanied by a shift in the role of the main actors involved in the control and management of public finance.

Goal-based public policy management, a results-oriented budget, a new system of responsibility, strengthened accountability and a new accounting system are the key features of the reform.

The Decree of 28 June 2011 on internal audits in the administration is the culmination of a decision to limit the risks the ministries incur in managing public policy. This reform has made it possible to extend the scope of internal control to all “professions” and functions in ministerial departments and to establish an effective internal audit policy in the government administration.

Effective governance of public management

The French system focuses on managerial responsibility. The programme manager is the central link of public management, and helps to integrate political responsibility, borne by the minister, and managerial responsibility, borne by the programme manager. Under the minister’s authority, programme managers are involved in drafting the strategic objectives of the programme they are responsible for: they guarantee operational implementation and undertake to fulfil the relevant objectives. The minister and the programme manager become accountable for the objectives and indicators specified in the Annual Performance Plans. These national objectives are adapted, if necessary, for each government service. The

programme manager delegates the management of the programme by establishing operational programme budgets that are assigned to managers.

Source: (OECD, 2015^[3]), “Budget reform before and after the global financial crisis,” 36th Annual OECD Senior Budget Officials Meeting,

[http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/PGC/SBO\(2015\)7&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/PGC/SBO(2015)7&docLanguage=En);

(European Commission, 2014^[4]), Compendium of the Public Internal Control Systems in the EU Member States (2nd ed), <http://ec.europa.eu/budget/pic/lib/book/compendium/HTML/index.html> (9 May 2017).

6.4. Establishing internal control measures

Internal control measures constitute checks and balances that are the responsibility of management and are carried out by staff on a daily basis. Internal controls include a wide range of processes and checks intended to ensure that employees and managers exercise their duties within parameters established by the government entity. The overall goal of internal control is to implement the internal rules and values of the organisation in accordance with senior management’s vision and for meeting the organisation’s strategic objectives.

Mexico City’s new law on audit and internal control, issued in September 2017, describes internal control (Article 29) as “the verification and evaluation process with a preventive approach and in accordance with the applicable legal norms, implemented to guarantee good administration and open government in the government entities of the Public Administration of Mexico City, concerning the activities, operations, actions, programmes, plans, projects, goals, institutional activities, application of human, material, financial and computer resources, as well as the administration of the information”. It stipulates that internal control will consist of five stages: planning, programming, checking, results and conclusion. Some additional clarification could be useful, to ensure that the internal control framework will include tangible everyday controls to prevent and detect potential fraudulent behaviour. Controls could include, for example: authorisation and approval procedures; spending limits; segregation of duties; reconciliations; system passwords; and ongoing monitoring and review.

6.4.1. Mexico City could create a system of accountability for procedural manuals to ensure they are consistent, regularly updated and reflect efficient procedures.

In Mexico City, each line ministry, delegation and government entity has its own procedure manuals, which are approved by senior management and registered with the Public Administration of the Federal District (Mexico City, 2014^[5]). The General Coordination of Administrative Modernisation (*Coordinación General de Modernización Administrativa*, CGMA) provides advice on the design of manuals and is responsible for determining if each manual meets basic requirements, but it does not provide oversight on the implementation (or regular update) of the manuals. Manuals are to be written in accordance with the state’s *Technical Guide for the Manufacturing of Manuals of the Government of the Federal District*, which provides guidance on content and formatting.

Senior management does not supervise the implementation of manuals. The implementation of manuals is thus not overseen except when they are subject to an audit. There was some indication that these manuals are created more to comply with

requirements (and “protect” the government entity from negative findings if they were subject to an audit) than to serve as practical guidance for public officials.

Officials reported that they consider these procedure manuals to be a form of control, in that they outline the expected standardised procedures for key processes. However, they indicated that the manuals are complicated, contain irregularities and can make processes inefficient. They are not based on the government entity’s strategic vision, and they do not outline what should be done and why. Further, the manuals do not contain procedures for conducting risk assessments or undertaking internal control activities. As a result, the manuals are not systematically referred to for guidance in making key decisions. Mexico City could consider creating a system to ensure these manuals are consistent, are regularly updated and reflect efficient procedures.

6.5. Refining the role of Internal Control Units and strengthening the independence of the Comptroller-General

6.5.1. Mexico City could clearly separate the lines of defence, with senior management, rather than internal auditors, charged with implementing risk management and designing and implementing internal controls.

Internal audit (the third line of defence) serves as a key control to detect corruption, but its main purpose is to provide objective assurance that risk management and internal controls (the first and second lines of defence) are functioning properly. An effective internal audit function also ensures that internal control deficiencies are identified and communicated in a timely manner to those responsible. Internal audit is also a necessary ingredient for effective accountability and better management. It helps hold officials accountable for their actions and to report on performance and management gaps. Institutional responses to negative audit findings and integrity breaches may strongly influence the institutional culture, the tone at the top and the overall effectiveness of the internal control framework.

Mexico City’s internal control structures do not clearly align with the three lines of defence model, as the Comptroller-General of Mexico City is responsible for implementing internal controls as well as undertaking and reviewing internal audit reports. In addition, the Comptroller-General of Mexico City holds regular meetings with internal control units to review the progress of the implementation of the audit plan and of other matters falling under their responsibility. This structure blurs the distinctions between the lines of defence. International standards note that it is preferable that the first and second lines of defence do not involve the internal auditors (third line of defence).

Typically, there is a clear separation between the internal audit function (the third line of defence) and the second line of defence, which consists of management oversight functions to ensure that first line controls are properly designed, in place and operating as intended. When senior management considers that it is more efficient for internal audit to also perform risk management, compliance or other second line of defence functions, it becomes difficult to clearly separate second and third lines of defence.

To avoid institutional conflicts of interest in such cases, public organisations must set up appropriate safeguards to ensure the effectiveness of the internal audit function is not compromised. For instance, if the internal audit is involved in second line of defence activities, the task of providing assurance on these activities must be outsourced either externally or internally to other departments. The internal audit function should not

assume any managerial responsibilities concerning the matter subject to the audit. In such cases, the internal audit can facilitate and support the responsible actors, but should not assume ownership.

Likewise, should internal auditors uncover irregularities that suggest corrupt or fraudulent activities, the case should be forwarded to qualified investigators, whose duties will be to assess whether such fraudulent or corrupt acts have indeed taken place. Once again, to avoid any institutional conflicts of interests and to reinforce the internal control framework, auditors should not be responsible for leading internal investigations.

In Mexico City, internal audits are generally conducted by auditors from the Comptroller-General's office who are posted to government entities' internal control units. Although most Mexico City ministries and delegations have an internal control unit, only 28 of the 45 government entities have one. The Comptroller-General aims to send an audit team at least annually to entities that do not have an internal control unit.

The Comptroller-General does not conduct performance audits, but internal audits include a second phase that looks at control effectiveness. Effectiveness is thus not assessed in a systematic way, but only in areas where there was reason to trigger traditional audits. However, there appears to be confusion between the concepts of compliance audits and audits seeking to measure effectiveness, since most examples given by Mexico City officials pertained to the former rather than to the latter.

Public officials indicated during interviews conducted that internal controllers have sometimes been considered to be strict, lacking in perspective and overly focused on the implementation of procedure manuals (which are often out of date). Controllers were also seen to be lacking in the softer skills required to advise public officials on ethical dilemmas and difficult situations. Further, the perception among staff is that if they seek guidance, there is a chance they could be audited or punished. Some of those interviewed suggested that another unit could perhaps be responsible for providing ethics advice and training. This group could collaborate with the Internal Control unit, but remain separate.

6.5.2. Given Comptroller-General Guidelines require that the audit programme be based on priorities and a risk assessment, Mexico City could develop and implement a risk-based approach to internal audit topic selection.

In November 2011, the Comptroller-General published audit guidelines: General Guidelines for the Planning, Preparation and Presentation of Audit Programmes of the General Office of the Federal District. The guidelines state that one of the priorities of the Public Administration of the Federal District is to have a public administration that is modern, technologically innovative, with the faculties and resources necessary to meet citizen demands with efficiency, simplicity and without excessive procedures. The guidelines also outline specific objectives for internal auditors, such as:

- Develop audit programmes based on a proactive approach that integrates the results of the study on the objectives, priorities and needs of the government entity and the risk assessment and management, as well as strategic aspects dictated by the Comptroller-General;
- Support government entities in innovation, improvement and administrative modernisation, as well as in the development and diffusion of internal control schemes;

- Promote the achievement of institutional goals and objectives with efficiency, honesty and transparency and be a strategic contributor to the Public Administration of the District;
- Promote training programmes for Internal Comptrollers, so that they have current knowledge that allows them to achieve high-quality interventions.

Audit plans are to be linked to the entities' objectives and are prepared by internal control units in each ministry or delegation. Officials indicated that the majority of internal audits are triggered by citizens rather than following a risk-based planning system. They do, however, use four criteria to prioritise audits: importance; presence; amount of funds; and pertinence. Risk analysis and prioritisation is important in the internal audit planning process to ensure resources are allocated to areas of greatest need and to ensure the greatest impact.

The new Audit and Internal Control Law of Mexico City of 2017 contains more guidelines for audit planning. It includes (Article 22) that the planning stage will consider, among other things, "the importance and risk of the operations of the public entity audited". It also provides (Article 8) for audits to be performed at any time determined by the Secretariat of the Comptroller-General or its administrative unit, independent of the times included in the annual audit programme. It is beneficial to give auditors this independence to adjust their audit plan, as this allows for more timely review if issues or challenges come to light.

Mexico City could consider the approach taken by Mexico's Supreme Audit Institution (*Auditoría Superior de la Federación*, or ASF). ASF's strategic and operational agility, including its capacity to manage a high volume of audits, relies in part on the effectiveness of its audit programming, which it calls, the "Annual Programme of Audits for the Public Account" (*Programa Anual de Auditorías para la Fiscalización Superior de la Cuenta Pública*, or PAAF). The PAAF is ASF's methodological framework for identifying the audits it will conduct for the duration of one year. The PAAF's audit-programming processes take into account a number of factors, such as ASF's technical and managerial autonomy, the relative importance of audited entities, the variation in the amount allocated in relation to the previous public account, audit history, and complaint or requests from the Chamber of Deputies. It also involves consideration of available resources, types of audits to be conducted, and staff experience (OECD, 2017_[6]).

Individual audit units in ASF propose audits or studies for inclusion in the programming process. The units have some flexibility to define their programming methodology according to the nature of their duties, but they must comply with the provisions of the overall methodological framework. The PAAF incorporates a risk assessment to identify and select audit priorities, which includes quantitative and qualitative methodologies for scoring risks based on 16 risk factors, and making risk-based comparisons to prioritise work. Effective risk-based audit programming can be a useful approach for audit institutions to direct audit resources to areas it deems to be most critical, based on a predetermined set of criteria. Risk-based audit programming can contribute not only to economical use of resources, but also to the evidence-based prioritisation of policy objectives and the effective use of tax revenue (OECD, 2017_[6]), p. 32.

6.5.3. Mexico City could strengthen mechanisms for internal control units to monitor implementation of audit recommendations.

Internal auditors indicated that there are no mechanisms for following up on the implementation of recommendations or for ensuring that negative cases do not repeat

themselves. Auditors also indicated that there were sometimes issues with government entities interfering with audit findings. Audit recommendations are only effective if they are implemented. The SAIs for other OECD member countries have methods for following-up recommendations. For example, the Australian National Audit Office (ANAO) conducts a selection of follow-up performance audits each year to assess government entities' implementation of performance audit recommendations from previous years. Australian government entities also have Audit Committees that meet regularly to, among other things, monitor the implementation of audit recommendations, and the ANAO can attend these meetings as an observer and/or request the meeting minutes.

In Canada, the office of the Auditor General of British Columbia, a sub-national audit office, has published follow-up reports based on self-assessments from audited government entities and conducted follow-up audits on a selected number of them (Box 6.2). Mexico City could strengthen processes to allow for the follow-up of recommendations, such as through a selection of follow-up audits or by organising annual self-assessments.

Box 6.2. Office of the Auditor General of British Columbia: Following up Audit Recommendations

The Office of the Auditor General of British Columbia (OAG) published a report, *Follow-Up Report: Updates on the Implementation of Recommendations from Recent Reports*, in June 2014. According to the then Auditor General of British Columbia, it was critical that the OAG follow up on the recommendations to ensure that citizens receive full value for money from the OAG's work, because the recommendations identify areas where government entities can become more effective and efficient.

The OAG then published a follow-up report including self-assessment forms completed by audited government entities. These forms were published unedited and were not audited. The June 2014 report contained 18 self-assessments, two of which reported that the entity had fully or substantially addressed all of the recommendations in their reports.

The OAG also followed up on its recommendations by auditing four self-assessments to verify their accuracy. The OAG found that in almost all cases, government entities had accurately portrayed the progress that they had made to implement the recommendations. While it sometimes found that recommendations were partially rather than fully or substantially implemented as self-reported, the discrepancy usually resulted from a difference in understanding of what fully or substantially implemented meant. In those cases, the OAG worked with the ministries and agencies to clarify expectations and reach agreement on the status of the implementation.

Source: OAG (2014^[7]), *Follow-Up Report: Updates on the Implementation of Recommendations from Recent Reports*, Office of the Auditor General of British Columbia, June, http://www.bcauditor.com/sites/default/files/publications/2014/report_19/report/OAGBC%20Follow-up%20Report_FINAL.pdf.

6.5.4. Mexico City could revise the audit planning process for the Comptroller-General to help increase its independence from the government.

The Office of the Comptroller-General is responsible for the audit, evaluation and control of the public management of the dependencies, delegations and government entities of the Government of Mexico City. The Comptroller-General sits within the organisation structure for the state-level Audit Office (*Auditoría Superior de la Ciudad de México*) and is appointed by the Head of Government, with the appointment ratified by the Legislative Assembly. The Comptroller-General does not have full independence to determine his own priorities and internal audit work plans. Greater independence would give the Comptroller-General greater credibility, which would, in turn, promote better outcomes.

The Mexican Institute for Competitiveness (IMCO) and the Centre for Economic and Administrative Sciences of the University of Guadalajara (CUCEA) found that lack of autonomy is a weakness among superior state audit offices in Mexico. OECD's work with supreme audit institutions (SAIs) helps to illustrate one of the practical effects that this lack of independence has on accountability. In a survey of ten leading SAIs, OECD explored ways in which SAIs contribute to the policy cycle, including formulation, implementation and evaluation of policies and programmes. The findings suggest that SAIs require autonomy and flexibility to engage across the policy cycle at their own discretion (OECD, 2016^[8]). Applying this to Mexico, external factors that limit the independence of audit offices are likely to result in less extensive contributions to policies and programmes, and therefore to limit the uptake of their work by the executive branch.

The International Organization of Supreme Audit Institutions (INTOSAI) has published a number of documents – including *INTOSAI GOV 9100: Guidelines for Internal Control Standards for the Public Sector* – that stress the importance of independence for internal and external auditors (see Box 6.3).

Box 6.3. International standards for ensuring independence of audit institutions

Ensuring audit institutions are free from undue influence is essential to ensure the objectiveness and legitimacy of their work, and principles of independence are therefore embodied in the most fundamental standards concerning public sector audit. The International Organization of Supreme Audit Institutions (INTOSAI), for example, has two fundamental declarations citing the importance of independence. Specifically the “Lima Declaration of Guidelines on Auditing Precepts” and the “Mexico Declaration on SAI Independence” draw attention to the importance of organisational, functional and administrative dimensions of independence (INTOSAI, 1977^[9]; INTOSAI, 2007^[10]).

- Organisational independence is closely related with the SAI leadership – i.e. the SAI head or members of collegial institutions – including security of tenure and legal immunity in the normal discharge of their duties.
- Functional independence requires that SAIs have a sufficiently broad mandate and full discretion in the discharge of their assignments, including sufficient access to information and powers of investigation. Functional independence also requires that SAIs have the freedom to plan audit work, to decide on the content and timing of audit reports and to publish and disseminate them.

- Administrative independence requires that SAIs be provided with appropriate human, material and monetary resources as well as the autonomy to use these resources as they see fit.

Independence is equally important for internal audit institutions. INTOSAI GOV 9100: Guidelines for Internal Control Standards for the Public Sector and INTOSAI GOV 9120 – Internal Control: Providing a Foundation for Accountability in Government (which includes a checklist), both stress the importance of the independence of internal auditors from an organisation’s management: “for an internal audit function to be effective, it is essential that the internal audit staff be independent from management, work in an unbiased, correct and honest way and that they report directly to the highest level of authority within the organisation (INTOSAI, 2010^[11]; INTOSAI, 2001^[12]). This allows the internal auditors to present unbiased opinions on their assessments of internal control and objectively present proposals aimed at correcting the revealed shortcomings”.

More specific guidelines with respect to independence are provided in *INTOSAI GOV 9140: Internal Audit Independence in the Public Sector*, which adopt principles from *ISSAI 1610: Using the Work of Internal Auditors*) in defining independence (INTOSAI, 2010^[13]). Criteria outlined in both documents include whether the internal audit institution is established by legislation or regulation, is accountable and reports directly to top management and has access to those charged with governance, is located organisationally outside the staff and management function and has responsibilities segregated from management, has clear and formally defined responsibilities, has adequate payment and grading, adequate freedom in developing audit plans, and is involved in the recruitment of its own audit staff.

Sources: International Organization of Supreme Audit Institutions: (INTOSAI, 2010^[13]; INTOSAI, 2010^[11]; INTOSAI, 2007^[10]; INTOSAI, 1977^[9]; INTOSAI, 2001^[12]).

6.6. Implementing a risk management framework

6.6.1. Mexico City could implement a systematic risk management framework to strengthen the internal control framework.

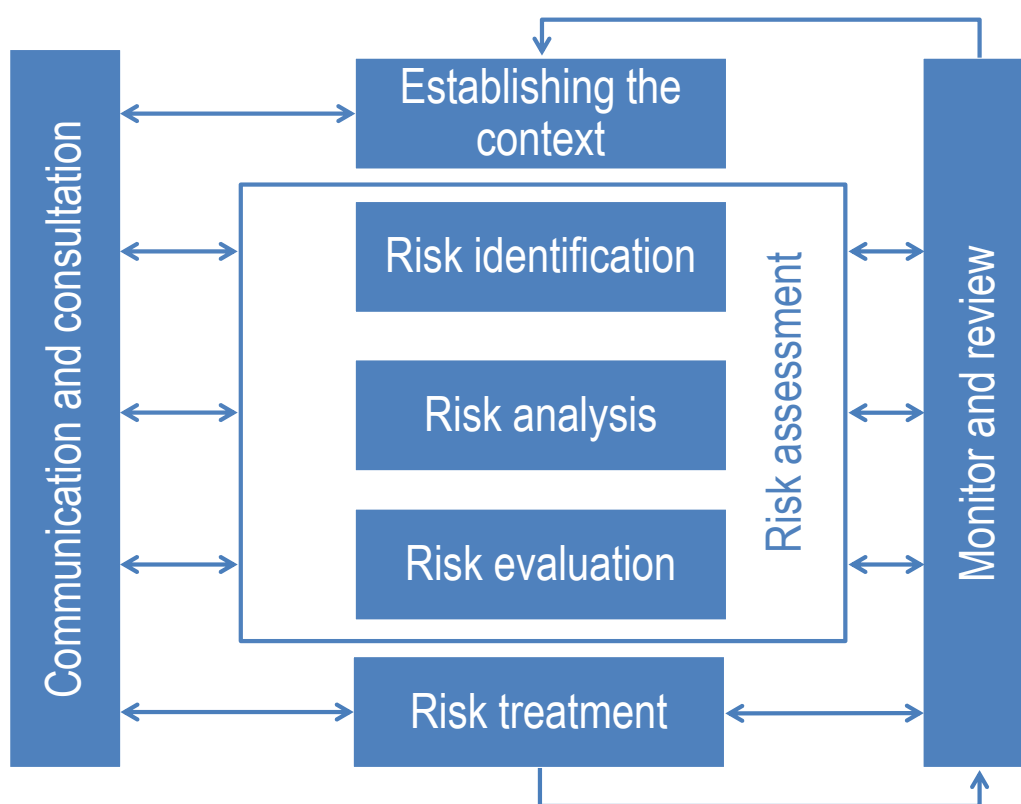
Mexico City’s framework and supporting legislation, which was valid until 1 September 2017, did not include a systematic risk management strategy, an essential element of the second line of defence and of an effective internal control framework – particularly in relation to combating fraud and corruption. The Public Administration’s Internal Control Guidelines (*Lineamientos de Control Interno de la Administración Pública de la CDMX*), issued on 8 January 2018, created a risk management system. Its implementation will be challenging for Mexico City and will require political commitment from senior management of the units.

Good governance practices among OECD countries indicate that risk management must be considered an integral part of the institutional management framework rather than managed in isolation. Risk management should permeate the organisation’s culture and activities in such a way that it becomes the business of everyone within the organisation.

Operational risk management begins with establishing the context and setting an organisation’s objectives. It continues by identifying events that might have an impact on

reaching them. Events with a potentially negative impact represent risks. Risk assessment is a three-step process that starts with risk identification and is followed by risk analysis, which involves developing an understanding of each risk, its consequences, the likelihood of those consequences, and the severity of the risk. The third step is risk evaluation, which involves determining the tolerability of each risk and whether the risk should be accepted or treated. Risk treatment is the process of adjusting existing internal controls, or developing and implementing new controls, to reduce the severity of the risk to a tolerable level (Figure 6.2).

Figure 6.2. Risk management cycle according to ISO 31000:2009



Source: Adapted from ISO 31000:2009 (ISO, 2009^[14]).

The process of establishing context and assessing and treating risk is linear, while communication and consultation, monitoring, and reviewing are continuous. Monitoring and reviewing helps identify new risks and reassess existing ones when there are changes in the organisation's objectives or in its internal and external environment. This involves scanning for possible new risks and learning lessons about risks and controls from an analysis of successes and failures (OECD, 2013^[15]).

An effective risk management framework is essential to managing public fraud and corruption. The US Government Accountability Office (GAO) has established a risk management framework for managing fraud risks in federal programmes. Its practical ongoing practices and activities are outlined in Box 6.4.

Box 6.4. Fraud and corruption risk management framework in the United States

The United States' Government Accountability Office (GAO) has developed a framework for managing fraud risks in federal programmes. It includes control activities, as well as structures and environmental factors that help managers mitigate fraud risks. The framework includes four components for effectively managing fraud risks.

1. Commit to combating fraud by creating an organisational culture and structure conducive to fraud risk management.

- Demonstrate senior-level commitment to combat fraud and involve all levels of the programme in setting a tone that does not tolerate fraud.
- Designate a government entity within the programme office to lead fraud risk management activities.
- Ensure the government entity has defined responsibilities and the necessary authority to serve its role.

2. Assess: Plan regular fraud risk assessments and assess risks to determine a fraud risk profile.

- Tailor the fraud risk assessment to the programme, and involve relevant stakeholders.
- Assess the likelihood and impact of fraud risks and determine risk tolerance.
- Examine the suitability of existing controls, prioritise residual risks, and document a fraud risk profile.

3. Design and implement a strategy with specific control activities to mitigate assessed fraud risks and collaborate to ensure effective implementation.

- Develop, document and communicate an antifraud strategy, focusing on preventive control activities.
- Consider the benefits and costs of controls to prevent and detect potential fraud, and develop a fraud response plan.
- Establish collaborative relationships with stakeholders and create incentives to help ensure effective implementation of the anti-fraud strategy.

4. Evaluate and adapt: Evaluate outcomes using a risk-based approach and adapt activities to improve fraud risk management.

- Conduct risk-based monitoring and evaluation of fraud risk management activities, with a focus on outcome measurement.
- Collect and analyse data from reporting mechanisms and instances of detected fraud for real-time monitoring of fraud trends.
- Use the results of monitoring, evaluations and investigations to improve fraud prevention, detection and response.

As outlined under each of these components, ongoing practices and activities can help an organisation maintain the monitoring and feedback mechanisms and ensure that the framework remains dynamic and staff remain engaged in the processes.

Source: (Government Accountability Office (GAO), 2015^[16]), *A Framework for Managing Fraud Risks in Federal Programs*, Washington, Government Accountability Office 15-593SP, <http://www.gao.gov/products/GAO-15-593SP>.

6.6.2. Mexico City could set up the risk management framework by assigning clear responsibility for managing risk to senior managers, providing risk management training for staff and updating risk management systems, tools and processes.

After a risk management framework is developed, it needs to be put into effect. Appropriate and accurate risk management information needs to be collected, senior management need to be assigned clear responsibility for the ongoing management and monitoring of risk, and all staff need to be aware of the risk management framework and how to incorporate risk management into daily work and decision-making.

Appropriate and accurate risk information is essential for operating a risk management framework. Without it, effectively assessing, monitoring and mitigating risk would be difficult. Information to support risk management can derive from a number of internal and external sources, depending on the programme or area of work. A consistent approach to sourcing, recording and storing risk information will improve the reliability and accuracy of the information needed.

For a risk management framework to function effectively, responsibility for specific risks needs to be clearly assigned to the appropriate senior managers. These managers need to take ownership of the risks that could affect their institutional objectives, use risk information to inform decision-making and actively monitor and manage their assigned risks. These managers should also be held accountable to the executive through regular reporting on risk management, including on successes, lessons learned and areas that could be improved.

Staff should be made aware of the risk management framework and key requirements through training and awareness-raising activities. Communication and consultation with staff is also a key step towards securing input in the risk management process and giving them ownership of the outputs of risk management. Informed employees who can recognise and deal with corruption risks are more likely to identify situations that can undermine the achievement of institutional objectives. Australia has developed guidance on building risk management capability in government entities, which provides useful insights (Box 6.5).

Box 6.5. Building Risk Management Capability: Australian government

The Australian Federal Department of Finance has developed guidance for government officials on how to build risk management capability in their government entities. The guidance indicates that entities should consider each of the areas outlined below to determine where improvements may be made to their risk capability.

People capability – A consistent and effective approach to risk management is a result of well skilled, trained and adequately resourced staff. All staff have a role to play in the management of risk. Therefore, it is important that staff at all levels of the government entity have clearly articulated and well communicated roles and responsibilities, access to relevant and up-to-date risk information, and the opportunity to build competency through formal and informal learning and development programmes. Building the risk capability of staff is an ongoing process. With the right information and learning and development, an entity can build a culture among its staff that is cognizant of risk and can improve the understanding and management of risk across the entity. Considerations include:

- Are risk roles and responsibilities explicitly detailed in job descriptions?
- Have you determined the current risk management competency levels and completed a needs analysis to identify learning needs?
- Do induction programmes incorporate an introduction to risk management for all levels of staff?
- Is there a learning and development programme that incorporates ongoing risk management training tailored to the government entity's different roles and levels?

Managing risk information – Successfully assessing, monitoring and treating risks across the government entity is dependent on the quality, accuracy and availability of risk information and supporting documentation. A consistent approach to the sourcing, recording and storage of information will improve the reliability and availability of information required by different audiences. Considerations include:

- Have you identified the data sources to provide you with the necessary information for a complete view of risk across the government entity?
- What is the frequency of collating risk information for delivery to different audiences across the government entity?
- Do you have readily available risk information accessible to all staff?
- How would you rate the integrity and accuracy of the available data?

Risk management processes – The effective documentation and communication of the risk management processes that support the government entities' approach to managing risk will provide a consistent approach to risk management and allow for clear, concise and frequent presentation of risk information to support decision making. Considerations include:

- When was the last time your risk processes were reviewed?

- Are your risk management processes well documented and available to all staff?
- Are your risk management processes aligned with your risk management framework?
- Is there training available, tailored to different audiences, in the use of your risk processes?

Source: (Australian Government Department of Finance, 2016^[17]), “Building risk management capability”, <https://www.finance.gov.au/sites/default/files/comcover-information-sheet-building-risk-management-capability.pdf>.

6.7. Reinforcing the professionalism of internal auditors

6.7.1. Mexico City could provide further training on ethics and integrity for internal auditors.

Internal auditors also play a key role in reinforcing a culture of integrity and accountability in the organisation. They act as agents of change, assessing the control environment as part of their assurance mandate, and motivating management to address flaws and inefficiencies in the effectiveness and the maturity of the control environment.

A key element for maintaining an effective internal control environment is ensuring the merit, professionalism, stability and continuity of audit staff. Public entities should develop mechanisms to attract, develop and retain competent individuals with the right set of skills and ethical commitment to work in the control and audit area. Training, certification and the improvement of auditing and investigative competences help enhance the effectiveness of the third line of defence, as it reinforces the credibility of the auditor.

The new Law of Audit and Internal Control for the Public Administration of Mexico City, issued on 1 September 2017, provides for a certification process for internal controllers, as well as for specific conditions that such officials should meet (Articles 16-17). Moreover, the Comptroller-General provides that a number of training activities on ethics, integrity and conflict of interest were undertaken by the School of Public Administration (see Chapter 3.). The content of the training courses offered to public officials does refer to ethics, but it is often more theoretical than practical. Courses that provide more examples and are tailored to the specific responsibilities of public officials would strengthen the overall awareness-raising strategy. Higher-level efforts to address the issue of weak professional expertise and capacity of internal comptrollers could include developing customised training modules in co-operation with the National School of Public Administration, training centres located in relevant ministries, audit institutions, professional associations and universities.

The Comptroller-General and internal controllers provide some training to operational staff. They conduct some ethics awareness-raising activities (although there is no legislative requirement to do so) and are available to provide public servants with guidance and advice. However, as noted, staff have the perception seeking guidance might expose them to audit or punishment. It would thus be convenient for this function to be carried out by a unit responsible for advising them to prevent conflict of interest and corrupt acts from arising.

The Comptroller-General (in particular, the *Dirección de Coordinación general de Evaluación y Desarrollo Profesional*) emphasises induction training and contacts government entities to ensure that training has been organised to raise the awareness of new staff of ethics, conflict of interest, security and integrity. Some officials indicated that these training materials are often out of date. The level of training provided varies from entity to entity and is dependent on the initiative of the local internal controller.

Proposals for action

Mexico City has launched its own anti-corruption system and instituted a number of elements of an internal control and risk management framework. However, more could be done to strengthen and build capacity in the internal control and risk management environment. Specific proposals for action that Mexico City could consider undertaking are outlined below.

Establishing an effective internal control framework

- Mexico City could draft a strategy for communications and capacity building to publicise the new guidelines for internal control, audits, and interventions in the public administration.

Adopting the “three lines of defence” model

- Mexico City could apply the principles of the “three lines of defence” model in refining the internal control framework.

Establishing internal control measures

- Mexico City could create a system of accountability for procedural manuals to ensure they are consistent, regularly updated and reflect efficient procedures.

Refining the role of Internal Control Units and strengthening the independence of the Comptroller-General

- Mexico City could clearly separate the lines of defence, with senior management, rather than the internal auditors, charged with implementing risk management and designing and implementing internal controls.
- Given that Comptroller-General guidelines require that the audit programme be based on priorities and a risk assessment, Mexico City could develop and implement a risk-based approach to internal audit topic selection.
- Mexico City could strengthen mechanisms for internal control units to monitor implementation of audit recommendations.
- Mexico City could revise the audit planning process for the Comptroller-General to help ensure greater independence from the government.

Implementing a risk management framework

- Mexico City could implement a systematic risk management framework to strengthen internal control.
- Mexico City could set up the risk management framework by assigning clear responsibility for managing risk to senior managers, providing risk management training for staff and updating risk management systems, tools and processes.

Reinforcing the professionalism of internal auditors

- Mexico City could provide further training on ethics and integrity for internal auditors.

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Annex 6.A. Mexico City's Standards and Guidelines for Internal Audit and Control

The Comptroller-General of Mexico City must implement internal controls and review the audit reports prepared by internal control and audit bodies in accordance with a range of standards and guidelines, as outlined below.

	Document Title	Title in English
1	<i>Normas Generales de Auditoría de la Contraloría General</i>	General Auditing Standards of the General Comptroller-General's Office
2	<i>Lineamientos Generales para la Planeación, Elaboración y Presentación de Programas de Auditoría</i>	General Guidelines for Planning, Preparation and Presentation of Audit Programmes
3	<i>Lineamientos Generales para las Intervenciones 2010</i>	General Guidelines for Interventions, 2010
4	<i>Lineamientos para la Supervisión de Auditorías y Revisiones que ordena la Contraloría General</i>	Guidelines for the Supervision of Audits and Reviews ordered by the Comptroller-General
5	<i>Lineamientos para la Atención de Quejas, Denuncias y la promoción de Financiamiento de Responsabilidad Administrativa derivado de Auditorías</i>	Guidelines for Complaints, Denunciations and the Promotion of Administrative Responsibility Financing Derived from Audits
6	<i>Acuerdo por el que se emiten lineamientos en material de control interno para el ejercicio de recursos federales que se apliquen en la administración pública de la Ciudad de México</i>	Agreement for the issuance of guidelines on internal control and the use of federal resources for Mexico City's public service
7	<i>Acuerdo por el que se emiten lineamientos en material de control interno para la administración pública de la Ciudad de México</i>	Agreement for the issuance of guidelines on internal control for Mexico City's public service

Chapter 7. Enhancing integrity in public procurement in Mexico City

In line with the OECD Recommendation of the Council on Public Procurement, this chapter assesses whether Mexico City has developed and implemented effective general standards for public procurement procedures, as well as specific procurement safeguards to preserve integrity in the public procurement system. The chapter reviews the transparency and the digitalisation of the system, but also the access to procurement information. It also describes how to preserve integrity among public procurement officials, potential suppliers and civil society. This chapter also analyses the conflict of interest framework for public procurement officials and the private sector. Lastly, it describes the oversight and control mechanisms in place as well as the remedies and sanctions system.

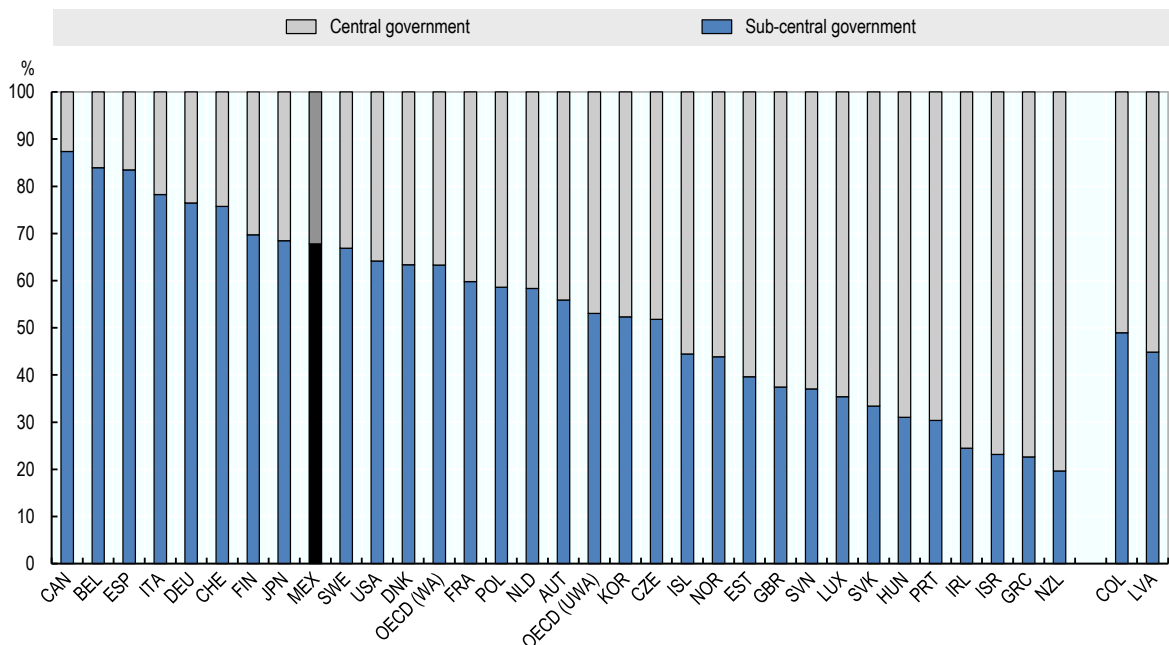
The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

7.1. Introduction

Public procurement refers to the process of identifying what is needed; determining who the best person or organisation is to supply this need; and ensuring that what is needed is delivered to the right place, at the right time, for the best price, and that all this is done in a fair and open manner. It accounts for a substantial portion of the taxpayers' money in OECD member and partner countries, representing, on average, 12% of GDP and 29% of national budget. Public procurement is a crucial pillar of strategic governance and services delivery for government and a key economic activity of governments. With such high financial interests at stake, the numerous volume of transactions, and the close interaction between the public and the private sectors, many opportunities are present for private gain and waste at the expense of taxpayers.

Governments are expected to prevent and mitigate these risks and carry out public procurement activities efficiently and with high standards of conduct. The goal is to ensure high quality of service delivery and safeguard the public interest, in all phases of the procurement cycle and at all levels of government where integrity breaches can occur. With its federal government structure, Mexico is one of the OECD countries where procurement at the sub-central level is greater than the national level (see Figure 7.1). The share of public procurement at the sub-central level is around 70% and Mexico City's public procurement accounts for a large proportion of the country's spending: USD 985 million.

Figure 7.1. General government procurement by level of government



Source: (OECD, 2015^[1]), *Government at a Glance 2015*, OECD Publishing, Paris.

Enhancing integrity and public procurement systems has been identified as a clear priority in the country which is undertaking reforms at the federal and also at the state level. This priority was highlighted in the eight measures on integrity announced by the

president and also in the programme of Mexico City's government. Of these eight measures, four, described in Box 7.1, directly target the procurement process.

Box 7.1. Measures announced by the president of the Republic of Mexico to enhance integrity in public procurement

- A Protocol of Conduct for Public Servants in Public Procurement, and on the granting and extension of licences, permits, authorisations and concessions (*Acuerdo por el que se expide el protocolo de actuación en materia de contrataciones públicas, otorgamiento y prorrogo de licencias, permisos, autorizaciones y concesiones*), which is included in the General Law on Administrative Responsibilities (*Ley General de Responsabilidades Administrativas*);
- A Registry of Public Servants of the Federal Public Administration involved in public procurement processes (*Registro de servidores públicos de la Administración Pública Federal que intervienen en procedimientos de contrataciones públicas*), including their classification according to their levels of responsibility and their certification;
- An online publication of sanctioned suppliers, specifying the reason for the sanction;
- Increased collaboration with the private sector to reinforce transparency in procurement procedures and decision making to reinforce integrity by involving citizens in identifying vulnerable processes and procedures, and the development of co-operation agreements with chambers of commerce and civil society organisations.

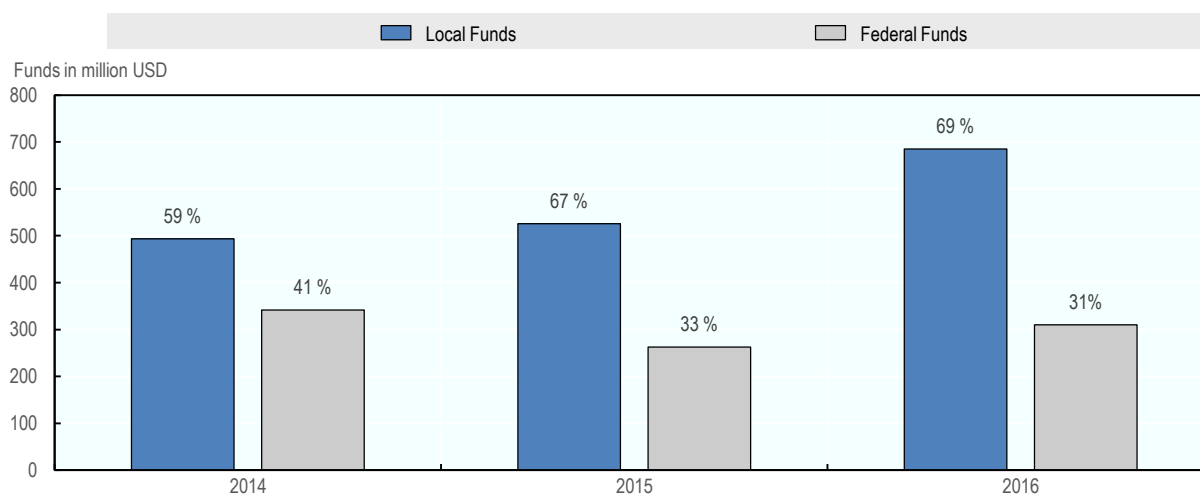
Source: Adapted from <http://www.gob.mx/presidencia/prensa/anuncia-el-presidente-enrique-pena-nieto-un-conjunto-de-acciones-ejecutivas-para-prevenir-la-corrupcion-y-los-conflictos-de-interes>.

Mexico City has two different public procurement systems, depending on the source of funding. When using federal funds, contracting authorities (CAs) have to follow the federal system. However, when using local funds, CAs have to follow exclusively the system developed at the local level by Mexico City. As described in Figure 7.2, in 2016, 69% of CDMX public procurement derived from local funds. The public procurement regulatory framework when using local funds is based primarily on the local public procurement law (*Ley de Adquisiciones para el distrito federal*, or PPL), which was revised in September 2016, as well as the Public Works law (*Ley de Obras Públicas del Distrito Federal*, or PWL), which was revised in September 2015. For the implementation of each of these two laws, Mexico City issued regulations (*Reglamento de La Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público*, or REGPPL, and *Reglamento de la Ley de Obras Públicas del distrito federal*, or REGPWL).

In addition to the laws and regulations mentioned above, Mexico City issued two circulars regulating procurement activities and resource management: Circular 1 for ministries, administrative Units, decentralised bodies and public administration entities of the public administration of the Federal District; Circular 1 bis for territorial demarcations (*delegaciones*).

When contracting authorities of Mexico City (ministries, administrative units, decentralised bodies, public administration entities and territorial demarcations) use federal funds, they are subject to the federal regulatory framework: the Law on Acquisitions, Leasing and Services of the Public Sector (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público*, or LAASSP) and the Law on Public Works and Related Services (*Ley de Obras Públicas y Servicios relacionados con las mismas*, LOPSRM). While mentioning the two systems, this chapter will focus on the system developed by Mexico City, analysing the legal and institutional framework but also the processes to ensure and enhance integrity in the public procurement system.

Figure 7.2. Share of local and federal funds in Mexico City



Source: Author, based on data provided by CDMX.

This chapter is organised into four sections: 1) enhancing transparency and access to information on public procurement processes and activities; 2) preserving integrity and promoting a culture of integrity among public procurement officials, potential suppliers and civil society; 3) encouraging public integrity through an effective management of conflict of interest in the procurement process; 4) strengthening the accountability, control and risk management system of public procurement processes.

7.2. Enhancing transparency and access to information on public procurement processes and activities

7.2.1. Enhancing the access to procurement opportunities and the efficiency of the system by reducing the use of exceptions to open and competitive tendering.

Integrity risks are also linked to the procurement method used by contracting authorities (CAs). The use of open and competitive tendering should be the standard method for conducting procurement as a means of driving efficiencies, fighting corruption, obtaining fair and reasonable pricing and ensuring a competitive outcome. If exceptional circumstances justify limitations to competitive tendering and the use of single-source procurement, they should be limited, pre-defined and when they are used, should require appropriate justification and adequate oversight, taking into account the increased risk of

corruption, including by foreign suppliers (OECD, 2015^[2]). Indeed, according to the Foreign Bribery Report, more than half of the foreign bribery cases occurred in obtaining a public procurement contract. Therefore, the inappropriate choice of the procurement procedure entails a high risk of corruption, particularly with a lack of proper justification for the use of non-competitive procedures and the abuse of non-competitive procedures on the basis of legal exceptions: contract splitting, abuse of extreme urgency and unsupported modifications (OECD, 2016^[3]).

In Mexico City, the procurement regulatory framework provides the possibility to use three procurement methods: open tender (*licitación pública*), which is the general rule, restricted tender (*invitación a cuando menos tres proveedores*) and direct award (*adjudicación directa*). The exceptions to open tender are defined in Articles 54, 55 and 57 of the PPL and Article 63 of the PWL, which allow for various circumstances. Box 7.2 describes legal exceptions to open and competitive tender.

Box 7.2. Exceptions to open tender in Mexico City's Public Procurement Law

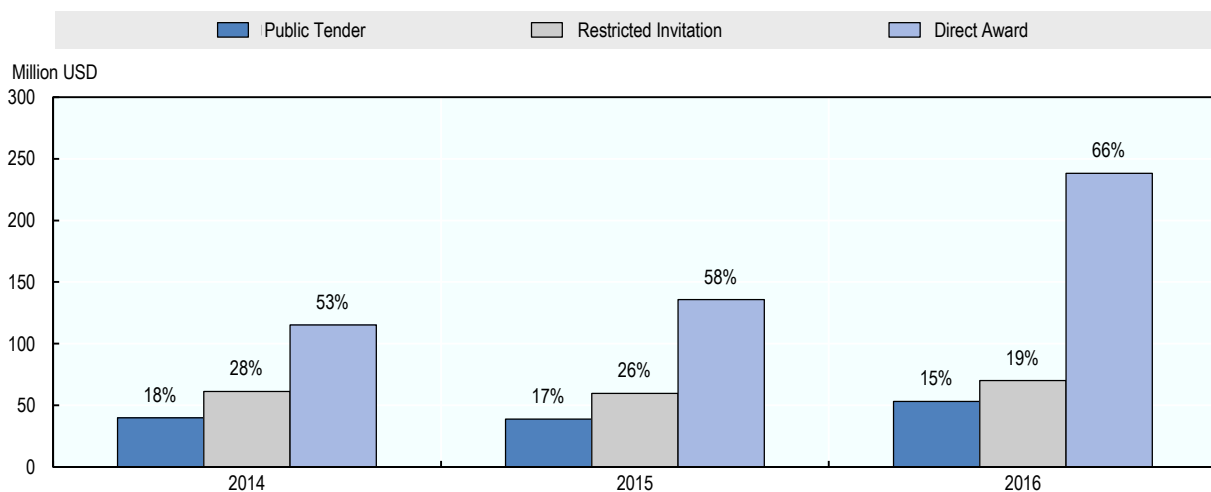
1. Artwork or goods and services with no appropriate /technical substitutes;
2. anything that poses a danger or entails alteration to the social order, economy, public services, health, safety or the environment of any zone or region of the Federal District;
- 2 bis. when it is demonstrated that there are better conditions in terms of price, quality, financing or opportunity;
3. the respective contract has been terminated for causes that can be attributed to the supplier;
4. after an open tender or restricted tender procedure that has been declared deserted;
- 4 bis. for public interest or confidentiality reasons;
5. justified reasons for the procurement of a particular brand;
6. procurement of perishable goods, prepared foods, grains and basic or semi-processed food products for immediate use or consumption;
7. consultancy services, studies and research, audits and services of a similar nature, whose procurement under the open tendering may affect the public interest or disclose confidential information about the public service;
8. procurement with specific marginalised rural or urban groups (social procurement);
9. in the case of acquisitions of assets, leasings or contract of services made by ministries, deconcentrated bodies, territorial demarcations and government entities for productive processes to comply with their mandates or for commercial purposes;
10. the procurement of insurance, maintenance, preservation, restoration and repair services of goods in which it is not possible to define its scope, establish the catalogue of concepts and quantities of work or determine the corresponding specifications;
11. procurement with natural or legal persons who are not usual suppliers and who, because they are in a state of liquidation or dissolution or under judicial intervention, can offer goods and services under exceptionally favourable conditions;
12. professional services provided by legal persons;

13. procurement with natural or legal persons offering goods and services of a cultural, artistic or scientific nature, in which it is not possible to define the quality, achieve or compare results;
14. military goods and services;
15. medications, healing material, and special equipment for hospitals, clinics or necessary for health services;
16. goods and services with an official price;
17. goods and services involving technological innovation generating a transfer of technology to the city and/or investment and/or employment;
18. goods and services for activities directly linked to the development of scientific and technological research.
19. when the contract has not been formalised, due to causes attributable to the supplier.

Source: Mexico City Public Procurement Law (2016), http://www3.contraloriadf.gob.mx/prontuario/index.php/normativas/Template/ver_mas/65234/31/1/1

The heads of CAs authorise exceptions to open tender, based on justifications provided by the concerned departments. In 2016, more than 66% of Mexico City's public procurement was performed through direct award and more than 19% through restricted tenders. In other OECD countries, open tenders are used much more frequently. In 2013, for instance, they represented 82% of total procedures in Spain, 72% in Germany and 88% in Sweden. In Mexico City, the use of exceptions has risen in the past three years: 82% in 2014, 83% in 2015 and 85% in 2016 (see Figure 7.3). Mexico City should consider reducing the cases of legal exceptions to open tender in the related articles of the PPL and PWL, to decrease the associated integrity risks.

Figure 7.3. Share of procurement method used in Mexico City



Source: Data provided by Mexico City.

7.2.2. *Improving the monitoring of exceptions to competitive tenders.*

In addition to the control system in place, Mexico City developed a specific control mechanism to ensure the integrity and the efficiency of the system: Procurement committees. This committee is a group of designated officials set up to independently review and assess procurement activities whose main goal is to ensure the efficiency and the integrity of the system. In a procurement process, this is considered the first line of defence in the three lines of defence model.

Procurement committees exist at the central level and at the delegation level and also at the level of the government entity (for this last, see Box 7.3). A key role of procurement committees is to issue an opinion on exceptions to competitive and open procedures. CAs are required to send a report on direct awards on a monthly basis to the Office of the Comptroller-General.

Box 7.3. Role of the procurement committee at the government entity level

1. Draft and approve its manual of integration and operation;
2. Prepare and approve the annual working programme and evaluate it on a quarterly basis;
3. Monitor compliance with their agreements;
4. Apply the general guidelines and policies issued by the Central Committee;
5. Establish policies for price verification, quality tests, environmental aspects and other requirements formulated by its operational areas, in accordance with the policies established by the Central Committee;
6. Review procurement programmes and budgets as well as formulate observations and recommendations;
7. Issue an opinion on some exceptions to open tender provided for in Article 54 of the Law, except for its clauses IV and XII;
8. Issue internal policies and guidelines on procurement, taking into consideration the proposals made by the central committee;
9. Promote policies concerning the consolidation of procurement, and terms of payment;
10. Analyse, on a quarterly basis, reports on the ruled cases submitted by the procurement units, as well as the general outcomes of procurement;
11. Apply, disseminate and monitor compliance with the Law, the Regulations and other applicable provisions.

Source: Regulation on Public Procurement Law:

http://www3.contraloriadf.gob.mx/prontuario/index.php/normativas/Template/ver_mas/62838/48/2/1

The composition of the procurement committee is more or less similar at all levels (central, delegation and government entity). All members can speak, however not all of them can vote. Table 7.1 provides a description of members of a procurement committee and their rights. Officials from the Office of the Comptroller do have not the right to vote in those committees which is in line with international best practices since they are also auditing the procurement procedures. For direct award, despite the fact that procurement

committees might act as the first line of defence, no specific and deep controls are performed before the award of the contract. As noted, around 85% of procurement in Mexico City involved exceptions to competitive tenders in 2016. This high share of exceptions casts some doubt on the efficacy of the system. Mexico City should enhance the control on exceptions to competitive procedures and consider the possibility of publishing their justification.

Table 7.1. Members of the procurement committee and their rights

Members of the procurement committee	Right to speak	Right to vote
A president, the head of the entity	x	x
Executive secretary	x	x
Administrative secretary	x	x
Representatives from technical, planning, budget areas	x	
Two citizen comptrollers	x	x
Representatives from the Office of the Comptroller-General and the legal departments	x	

Source: Public Procurement Law and regulations of Mexico City.

7.2.3. Encouraging the digitalisation of the procurement system by developing a comprehensive e-procurement system.

E-procurement, the use of information and communication technologies in public procurement, can increase transparency, facilitate access to public tenders, reduce direct interaction between procurement officials and companies, increasing outreach and competition, and allow for easier detection of irregularities and corruption, such as bid-rigging schemes (OECD, 2016^[4]). The digitalisation of procurement strengthens internal anti-corruption controls and detection of integrity breaches, and provides audit services trails that may facilitate investigation activities (see Box 7.4 for details on how Korea's e-procurement system fostered transparency and integrity).

Box 7.4. E-procurement system in Korea – KONEPS

In 2002, Public Procurement Service (PPS), the central procurement agency of Korea, introduced a fully integrated, end-to-end e-procurement system called KONEPS. This system covers the entire procurement cycle electronically (including a one-time registration, tendering, contracts, inspection and payment) and related documents are exchanged online.

According to PPS, the system has boosted efficiency in procurement and significantly reduced transaction costs. In addition, the system has increased participation in public tenders and has considerably improved transparency, eliminating instances of corruption by preventing illegal practices and collusive acts. For example, on KONEPS, the Korea Fair Trade Commission runs the Korean BRIAS system, an automated detection system for detecting suspicious bid strategies. According to the integrity assessment conducted by Korea Anti-corruption and Civil Rights Commission, the Integrity Perception Index of PPS has improved from 6.8 to 8.52 out of 10 since the launch of KONEPS.

Source: (OECD, 2016^[3]), *Preventing Corruption in Public Procurement*, <http://www.oecd.org/gov/ethics/Corruption-in-Public-Procurement-Brochure.pdf>.

When using federal funds, contracting authorities (CAs) are subject to the LAASSP (the federal public procurement law) and are required to use the federal e-procurement platform, CompraNet. However, when CAs are using local funds (69% of the total funds), Mexico City has not yet developed an end-to-end e-procurement system, which is under development. Many provisions of the PPL and the PWL mention the possibility of using electronic means in the procurement process, but in practice, most of the communication between suppliers and contracting authorities is performed by mail and face-to-face meetings, which increases the risk of corruption in procurement activities.

The development of the E-procurement system is co-ordinated by the Ministry of Finance (*Secretaría de Finanzas*) and the Administrative Office of the Government of Mexico City (*Oficialía Mayor*), the administration Office of the Government of Mexico City in charge of the internal administration of the Public Administration (human and material resources). The main objective of the system is to have in place an automated, transparent and modern electronic tool to prevent corruption. According to the Office of the Comptroller-General, the E-procurement system of Mexico City will be implemented in seven phases: 1) publication of an agreement by the Head of the Government of Mexico City to oblige all CAs to use the E-procurement system; 2) Mexico City will procure the necessary hardware and software; 3) decision by a commission in charge of regulating prices of the goods and services that will be procured through the e-procurement system; 4) creating a registry of suppliers; 5) definition of the administrative units that will use the system; 6) training public officials on the new system; 7) operating the system.

However, during the fact-finding mission, the different stakeholders did not provide information on the timeline for the implementation of the system or on its functionality. Some functionalities, such as e-submission, are crucial for preserving the integrity of the system. Although the main goal of the system is to prevent corruption acts and integrity breaches, it seems that not all goods and services will have to be procured through the system, which could compromise the integrity of the system. Mexico City should consider developing an end-to-end e-procurement system used by all contracting authorities and for the procurement of all goods and services, but also for public works.

7.2.4. Mexico City could benefit from implementing and enhancing electronic tools such as electronic price catalogues and suppliers' registries.

Electronic price catalogues of goods and services in common use are a powerful tool not only for avoiding mismanagement and waste of public funds but corruption. CAs will have to use the price established in the catalogue as a reference price for market analysis. Funds are then better accounted for and used for their intended purpose. This is a common practice in OECD countries, for instance, to fight corruption. In Italy, the National Anti-corruption Authority, ANAC, has been empowered to determine reference prices (G20, 2016^[5]).

In Mexico City, Article 6 of the PPL stipulates that the Administrative Office of the Government of Mexico City (*Oficialía Mayor*) must establish an electronic price catalogue for goods and services in common use; this catalogue should be updated regularly to perform an efficient market analysis. However, a price catalogue has not yet been developed, despite the fact that this provision has been included in the legal framework since April 2010. To comply with the PPL and enhance the integrity of the system, the Administrative Office of the Government should make the price catalogue available without delay.

The Ministry of Public Works implemented a similar concept, known as the “Costs tab” (*Tabulador de precios*), a price catalogue for goods and services related to public works. This catalogue should be used by all CAs in Mexico City to evaluate project costs, but also for bid evaluations in a tender procedure. To set the reference price, the Ministry of Public Works sends requests for quotation (RFQs) only to suppliers located in Mexico City, although no restrictions prevent suppliers from other states to participate in procurement opportunities in the city. To establish an appropriate estimate of reference prices, the Ministry of Public Works should consider reviewing its methodology by sending RFQs not only to suppliers located in Mexico City but also to relevant ones in other states.

An additional electronic tool to avoid waste of public funds is the establishment of a suppliers’ registry. Usually this registry is used to compile and store legal and financial information on suppliers, together with their field of activity and the categories of goods and services they can supply. An efficient suppliers’ registry should be updated regularly and include information on suppliers’ performance on public contracts, including information on integrity breaches, so CAs can select only reliable suppliers complying with integrity standards (see Box 7.5 for an example of the suppliers registry in the United States).

Box 7.5. Consolidation of suppliers’ information in the United States

The System for Award Management (SAM, www.sam.gov) is a free website owned and operated by the US government that consolidates the capability of various legacy databases and systems used in federal procurement and awards processes. For information on suppliers, it covers the following systems:

- The Central Contractor Registration (CCR) is the federal government’s primary vendor database, which collects, validates, stores, and disseminates vendor data in support of agency acquisition missions. Both current and potential vendors are required to register in the CCR to be eligible for federal contracts. Once vendors are registered, their data are shared with other federal electronic business systems that promote paperless communication and co-operation between systems. The information and capabilities of CCR are gradually being transferred into SAM.
- The Excluded Parties Lists System (EPLS) was a web-based system that identified parties excluded from receiving federal contracts, certain subcontracts and certain types of federal financial and non-financial assistance and benefits. The EPLS was updated to reflect government-wide administrative and statutory exclusions, and also included suspected terrorists and individuals barred from entering the United States. The user was able to search, view, and download current and archived exclusions. All the exclusion capabilities of the EPLS were transferred to SAM in November 2012. Furthermore, federal agencies have been required since July 2009 to post all contractor performance evaluations on the Past Performance Information Retrieval System or PPIRS (www.ppirs.gov). This web-based, government-wide application provides timely and pertinent information on a contractor’s past performance to the federal acquisition community for making source selection decisions. PPIRS provides a query capability for authorised users to retrieve report card information detailing a contractor's past performance. Federal regulations

require that report cards be completed annually by customers during the life of the contract. The PPIRS consists of several sub-systems and databases (e.g. the Contractor Performance System, Past Performance Data Base, and Construction Contractor Appraisal Support System).

Source: (OECD, 2013^[6]), *Colombia: Implementing Good Governance*, OECD Public Governance Reviews, OECD Publishing, Paris.

In Mexico City, Articles 14.2 to 14.7 of the PPL provide for the development by the Administrative Office of the Government of Mexico City (*Oficialía Mayor*) of a suppliers' registry (*padrón de proveedores*) for goods and services (www.proveedores.cdmx.gob.mx). The pilot phase started with the participation of few suppliers. Suppliers can register online by sending all information electronically. They will be then “pre-registered” and a disciplinary body composed of accountants and lawyers will be responsible for analysing the information and authorising the final registration of suppliers. To be registered, suppliers must submit documents including a written declaration under oath that they do not fall into any of the categories described in Article 39 of the PPL concerning breaches of integrity (see section 7.4).

The Ministry of Public Works has already implemented such a registry. However, it is not considered an electronic registry for two reasons: 1) suppliers must send their documents by mail, meaning that it is not possible to register online; 2) the registry is not managed electronically; the Ministry uploads the new list of suppliers with whom CAs can enter into contract every month, adding the recently registered suppliers and deleting the ones whose registration was cancelled. The list published online carries only the registration number and name of each supplier. The Ministry of Public works could benefit from implementing a full electronic suppliers' registry with constantly updated information; and adding additional information on the list of suppliers such as the field of work, the identification number provided by the Ministry of Finance and Public Credit and the names of the managers. Indeed, adding information can enable procurement officials find out whether they are in a potential conflict of interest situation.

7.2.5. Enforcing the provisions of the Transparency Law to access procurement information.

Transparency is critical for minimising the risks inherent in public procurement. It is also a key mechanism to enhance integrity by helping to hold all stakeholders accountable for their actions. In addition to the *OECD Recommendation on Public Procurement* (OECD, 2015^[2]), the *OECD Recommendation of the Council on Public Integrity* also promotes “transparency and an open government, including ensuring access to information and open data, along with timely responses to requests for information” (OECD, 2017^[7]). A timely degree of transparency should be observed in each phase of the public procurement cycle from procurement planning to payment of the contract. It includes publishing information on procurement plans, tender documentation, award decisions, contract amendments and completion of the contract.

In May 2016, in line with the *OECD Recommendation on Public Procurement*, Mexico City adopted the Law on Transparency, Access to Public Information and Accountability (*Ley de Transparencia, Acceso a la Información Pública y Rendición de Cuentas de la Ciudad de México*, or LTAIPRC). This contains provisions governing transparency in public procurement, in particular Articles 121 and 141 mandating contracting authorities (CAs) to publish procurement information on their website (see Box 7.6 for information all CAs are required to make available on their website).

Box 7.6. Procurement information to be published online

a) For open and restricted tenders:

1. The call for tender or invitation issued, as well as the legal grounds applied to carry out the procedure;
2. names of participants or suppliers invited;
3. name of the winner and a justification;
4. the area in charge of the procedure and the one in charge of the performance of the contract;
5. calls and invitations published;
6. award notice/decision;
7. the contract, date, amount and delivery time/performance of the services or public works;
8. monitoring and supervision mechanisms, including urban and environmental impact studies, as appropriate;
9. the budget item, in accordance with the classifier by object of expenditure, if applicable;
10. origin of resources specifying whether they are federal, or local, as well as the type of participation fund or respective contribution;
11. modifying agreements that, if applicable, are signed, specifying the object and date;
12. reports of physical and financial progress on the works or services contracted;
13. the termination agreement;
14. the settlement;

b) Direct awards:

1. the proposal sent by the bidder;
2. the justification and legal grounds for carrying out the procedure;
3. the authorisation of the exercise of the option;
4. where applicable, the price quotations, specifying the names of the suppliers and the amounts;
5. the name of the natural or legal person to whom the contract was awarded;

6. the requesting administrative unit and the person responsible for its execution;
7. the number, date, amount of the contract and period of delivery or execution of the services or work;
8. monitoring and supervision mechanisms, including, where appropriate, urban and environmental impact studies, when appropriate;
9. progress reports on contracted works or services;
10. the termination agreement.

Source: Law on transparency, access to public information and accountability of the city of Mexico, <http://www.infodf.org.mx/documentospdf/Ley%20de%20Transparencia,%20Acceso%20a%20la%20Informaci%C3%B3n%20P%C3%BAblica%20y%20Rendici%C3%B3n%20de%20Cuentas%20de%20la%20Ciudad%20de%20M%C3%A9xico.pdf>.

The institute in charge of monitoring compliance with the LTAIPRC is INFODF (*Instituto de Acceso a la Información Pública y Protección de los Datos Personales de la Ciudad de México*). This autonomous entity supervises access to information, guaranteeing the fundamental right of all citizens to share, investigate and request public information and participate in the policy-making process. It opens up public organisations' information to citizens by publishing timely, verifiable, comprehensive, accessible, updated and complete information in an appropriate format.

Each government entity should have a “Transparency” section on its website, where information is published and classified by article of the LTAIPRC. When looking for procurement information, users need to know the articles of the LTAIPRC related to procurement and then search for the information needed. The system currently in place is not user-friendly, since it requires knowing the LTAIPRC or entails extra research to understand under which articles the information can be found. Furthermore, after several verifications, it seems that the Law on Transparency, Access to Public Information and Accountability is not applied in its entirety, since information is missing and not published online, reducing the transparency and the efficiency of the system in all the procurement phases. This also holds for the tender preparation phase, since CAs do not publish information on their procurement plans which is crucial for engaging suppliers and ensuring the perfect match between demand and supply but also in ensuring that all suppliers have the same level of information. Mexico City should consider enforcing the Transparency Law and implementing a user-friendly website where potential suppliers, civil society and other stakeholders can access the information.

7.2.6. Encouraging the use of the open contracting portal by all contracting authorities

Another initiative implemented in Mexico City is the Open Contracting Partnership, which is about publishing and using open, accessible and timely information on public procurement. The publication of information and its use enables a better engagement, participation and also allows for monitoring of public spending by civil society and other stakeholders (Box 7.7 describes the benefits of open contracting and provides concrete evidence-based examples).

Mexico City is the first city in the world where some contracting authorities publish contracting information on the planning, tendering, awarding and implementation stages

using the Open Contracting Data Standard through the open contracting portal (<http://www.contratosabiertos.cdmx.gob.mx/contratos>) which was launched in 2016. In the first semester of 2017, only three CAs were registered in the platform: The Ministry of Finance (*Secretaría de Finanzas*), the *Oficialía Mayor* and the Ministry of Public Works (*Secretaría de Obras*). The Ministry of Public Works was using an accounting and budgeting system SICOP (*Sistema de Contabilidad y Presupuesto*) which had functions similar to the open contracting portal, allowing for monitoring of the physical and financial progress of public works. Users, such as officials from the Office of the Comptroller (*Contraloría de la Ciudad de México*), found this system very useful for conducting their activities. However the system was ended recently, which might be explained by the fact that the Ministry of Public Works joined the open contracting portal.

An effective enforcement of the LTAIPRC is key to enhance the transparency of the system at the CAs' level, but the Open Contracting platform could have a greater impact. It would make procurement information centralised, publicly available and reusable, which is crucial for policy makers, civil society and the private sector. Mexico City should then encourage the use of the open contracting portal by all CAs of the city.

Box 7.7. Open contracting standards

The benefits of open contracting

Publishing and using structured and standardised information about public contracting can help stakeholders to:

- deliver better value for money for governments,
- create fairer competition and a level playing field for business, especially smaller firms,
- drive higher-quality goods, works, and services for citizens,
- prevent fraud and corruption,
- promote smarter analysis and better solutions for public problems.

This public access to open contracting data builds trust and ensures that the trillions of dollars spent by government results in better services, goods and infrastructure projects.

The evidence so far

In Slovakia, full publication of government contracts helped expose wasteful spending, fraud and also led to a significant increase in competition for other contracts subsequently, encouraging small businesses and public innovation.

Openness pays huge returns on investment. South Korea's transparent e-procurement system KONEPS saved the public sector USD 1.4 billion in costs. It also saved businesses USD 6.6 billion. Time taken to process bids dropped from 30 hours to just two.

Source: www.open-contracting.org/why-open-contracting/.

7.2.7. Extending deadlines for economic operators to submit their bids.

Enhancing the access to public procurement opportunities by potential economic operators of all sizes is crucial to get the best value for money through fair competition. In addition to the publication of procurement information, including procurement plans and tender opportunities, another key factor influencing the participation of economic operators in public procurement is the deadline set by contracting authorities for potential suppliers to submit their bid. Longer deadlines enhance the competition among bidders and can reduce opportunities for corruption. Indeed, with longer deadlines: 1) more economic operators will be aware of procurement opportunities and 2) suppliers may have more time to prepare their bids and thus to submit them.

The public procurement regulatory framework of Mexico City foresees tight deadlines that can limit the participation of suppliers to tender opportunities. For instance, Article 43 of the PPL mentions that tender documents should be available only for a minimum of three days after the publication of the tender notice; Article 44 foresees that in the event of changes to the tender documents occurring after the bid opening session, suppliers have up to three days to adjust their economic proposal. No data is publicly available, and none was provided to assess the real time offered to suppliers to submit their bids; however, to enhance competition and the integrity of the system, Mexico City should consider extending the deadlines set in its regulatory framework to enhance the participation of suppliers in procurement opportunities (see Box 7.8 for examples of time limits to submit bids in Mexico at the federal level and in the European Union).

Box 7.8. Time limit for submitting bids

Mexico:

At the federal level, the minimum time limit to submit a bid for international tenders is set to **20 calendar days**, while for national tenders, it is set at **15 days**.

European Union:

Open procedure

In an open procedure, **any business may submit** a tender. The minimum time limit for submission of tenders is **35 days** from the publication date of the contract notice. If a prior information notice is published, this time limit can be reduced to **15 days**.

Restricted procedure

In a restricted procedure, any business may ask to participate, but **only** those who are **pre-selected** are invited **to submit a tender**. The time limit to request participation is **37 days** from the publication of the contract notice. The public authority then selects **at least 5 candidates** with the required capabilities, who have **40 days** to submit a tender from the date when the invitation was sent. This time limit can be reduced to **36 days**, if a prior information notice has been published.

Source: http://europa.eu/youreurope/business/public-tenders/rules-procedures/index_en.htm.

7.2.8. Introducing pre-publication for tender documents, to enhance competition and the integrity of the system.

A crucial tool for enhancing access to procurement opportunities is the publication of a prior information notice and the pre-publication of tender documents. This is generally regarded as a best practice: 1) to make the maximum number of suppliers aware of upcoming procurement opportunities, and 2) to give potential suppliers opportunities to provide comments on tender documents before they are formally published. This ensures efficient competition and avoids such integrity breaches as tailored technical specifications. There is no specific rule or timeline for the pre-publication of tender documents or the publication of pre-information notices. However, the sooner the contracting authority (CA) acts, the greater the impact will be for competition and for integrity.

The legal framework of Mexico City does not include provisions regulating the publication of a pre-information notice or the pre-publication of tender documents. CAs in the city therefore do not use them. The city's legal framework only includes provisions regulating clarification meetings, where potential bidders can ask the CA to clarify specific aspects of the tender documents. This can lead to changes to the tender documentation. Introducing tools such as the pre-information notice or the pre-publication of tender documents could enhance the integrity of Mexico City's procurement system and access to procurement opportunities.

7.3. Preserving integrity and promoting a culture of integrity among public procurement officials, potential suppliers and civil society

Procurement officials should demonstrate high ethical standards and moral values, professionalism, performing their duties based on principles of fairness and non-discrimination. Safeguarding integrity is crucial to curb corruption in the public procurement.

7.3.1. Developing a tailored anti-corruption strategy for public procurement.

After the adoption of the new constitution of Mexico City on January 2017, which granted greater political autonomy to the city, a series of anti-corruption and integrity reforms together with a Local Anti-corruption System are being implemented. On May 2015, a Decree was published in Mexico's *Federal Official Gazette* by which several provisions of the Constitution were amended, added or repealed, to prevent and detect corruption and, to sanction administrative responsibility, but also to control public resources with the final goal of eradicating corrupt practices (see Chapter 1.).

Given that public procurement is a high-risk area for corruption and integrity breaches, many countries have developed a targeted anti-corruption strategy or law for procurement. Both Austria (see Box 7.9) and Mexico at the federal level have instituted one, although Mexico's was abrogated when the General Law of Administrative Responsibilities (*Ley General de Responsabilidades Administrativas*) took effect (see Box 7.10). However in Mexico City, public procurement was not addressed directly in the anti-corruption system. During the fact-finding mission, it was noted that the PPL and PWL will be revised at a later stage, after the integrity reforms are adopted. Mexico City could then benefit from drafting an anti-corruption strategy for public procurement, in line with the anti-corruption system and integrity reforms and after reviewing its regulatory framework for procurement.

Box 7.9. The Austrian Federal Procurement Agency's Anti-corruption Strategy

Integrity is at the heart of the Anti-corruption Strategy developed by the Austrian Federal Procurement Agency (BBG), and embodied in the following actions:

- Set precise organisational procedures (clear definition of roles and structures).
- Incorporate anti-corruption measures into workday life.
- Constantly reassess and improve the strategy.
- Constantly raise the awareness of staff.
- Sharpen the focus on the consequences of corruption.

The Strategy contains an explicit regulation of the main values and strategies for preventing corruption, clear definition of grey areas (e.g. the difference between customer care and corruption), clear rules on accepting gifts, and rules on outside employment. It also sets out for employees a clear understanding of emergency management.

Source: (OECD, 2016^[3]), *Preventing Corruption in Public Procurement*, <http://www.oecd.org/gov/ethics/Corruption-in-Public-Procurement-Brochure.pdf>.

Box 7.10. The Federal Anti-corruption Law on Public Procurement in Mexico

The Federal Anti-corruption Law on Public Procurement (*Ley Federal Anticorrupción en Contrataciones Públicas*, LFACP), adopted in June 2012, has the following provisions to address issues of corruption and fraud:

- Penalties and liabilities for both Mexican and foreign individuals and government entities for violating the law while participating in any federal procurement process, and also applying to other related professions that may have an influence on the integrity of the public procurement process (including, but not limited to, public servants).
- Mexican individuals and government entities involved in corruption in international business transactions are equally liable.
- Acts such as influence, bribery, collusion, omission, evasion, filing false information and forgery are considered infractions (Article 8).
- Penalties for violation of the law include fines and legal disqualification (*inhabilitación*) from the relevant working sector for periods ranging from three months to eight years for individuals and three months to ten years for government entities (Article 27).
- Pleading guilty and co-operating in the investigation reduces the sanctions by up to 50%, if the plea is submitted within 15 working days after the notification of the administrative disciplinary proceedings (Articles 20 and 31).

- The identity of whistle-blowers must remain confidential (Article 10).

Source: (OECD, 2015^[8]), *Effective Delivery of Large Infrastructure Projects: The Case of the New International Airport of Mexico City*, OECD Publishing, Paris.

The integrity of the procurement system is ensured by several provisions in the PPL and PWL, such as the establishment of procurement committees and Citizen Comptrollers, the blacklisting of suppliers and also oversight of procurement plans and budgets by Mexico City's Ministry of Finance (*Secretaría de Finanzas*). However, the procurement regulatory framework also includes provisions threatening the integrity of the system, such as giving suppliers short deadlines for submitting their bids (see Section 7.2) and also provisions increasing the risk of collusion: 1) clarification meetings with written and oral questions; 2) public meetings to present tender results, offering suppliers the possibility of presenting a better offer during the meeting; 3) allowing bidders to attend the bid opening meeting; 4) organising of joint site visits for bidders when required in the tender. The OECD Guidelines for Fighting Bid Rigging in Public Procurement (OECD, 2009^[9]) recommends avoiding bringing potential suppliers together by holding regularly scheduled pre-bid meetings. Mexico City could benefit from reviewing its procurement framework in the light of international best practices and integrity reforms.

Many other laws govern the integrity of the public procurement system (see Chapter 3.). They include Article 47 of the Federal Law of Public Servants' Responsibilities (abrogated) (*Ley Federal de Responsabilidades de los Servidores Públicos*, or LFRSP), Articles 7 and 8 of the Federal Law of Public Servants' Administrative Responsibilities (*Ley Federal de Responsabilidades Administrativas de los Servidores Públicos*, or LFRASP) and Articles 21, 43, 44, 45, 59 and 70 of the General Law of Administrative Responsibilities (*Ley General de Responsabilidades Administrativas*, or LGRA).

- Article 47 (abrogated) of the LFRSP determines obligations and duties of public servants, including public procurement officials.
- Article 7 of the LFRASP mentions the responsibility of public officials to perform their duties in compliance with the LFRSP, and following the principles of lawfulness, honesty, loyalty impartiality and efficiency of the public service.
- Article 8-XII of the LFRASP describes the "gift policy", prohibiting public officials to receive and accept gifts, favours, jobs.
- Article 57 (abrogated) of LFRSP stipulates that every public official may report, in writing to the internal control department of each CA, any breaches entailing the administrative responsibility of other public officials.
- Article 49 (abrogated) of LFRSP stipulates that every government entity should have a unit where everyone can report breaches (including integrity breaches) by public officials for their obligations.
- Article 43 of LGRA and LRA of Mexico City creates the regime for public servants participating in public procurement.
- Article 44 of the LGRA and LRA of Mexico City established the obligation to issue and implement a protocol for public procurement by the Co-ordination Committee of the national and local Anti-corruption System.
- Article 59 of the LGRA and the LRA of Mexico City establishes open-term contracting as a serious offence.
- Article 70 of the LGRA and LRA of Mexico City establishes collusion in public procurement as individual act and as a serious offence.

All procurement officials must comply with all the provisions of the LFRSP, but many provisions are directly linked to public procurement (see Box 7.11).

Box 7.11. Provisions of the LGRA directly related to procurement activities

Article 21. The Secretariats may sign collaboration agreements with natural or legal persons participating in public contracting, as well as with chambers of commerce or industrial or trade organisations, with the aim of guiding them in setting up self-regulation mechanisms that include the implementation of internal controls and an integrity programme to ensure the development of an ethical culture in their organisation.

Article 43. The National Digital Platform will include a list of the names and affiliation of the public servants who are involved in public procurement procedures, whether in the processing, attention and resolution for the award of a contract, granting of a concession, licence, permit or authorisation and its extensions, as well as the alienation of movable assets and those that rule on appraisals, which will be updated every two weeks. The formats and mechanisms for recording the information shall be determined by the Co-ordinating Committee. The information referred to in this Article shall be made available to the public on an Internet portal.

Article 44. The Co-ordinating Committee shall issue the protocol of action in contracting that the Secretariats and the internal control bodies shall implement. This protocol of action must be complied with by the public servants registered in the National Digital Platform. Where applicable, they will apply the formats individuals use to declare business, personal or family ties or relations, as well as possible conflicts of Interest, under the principle of maximum publicity and in the terms of the applicable regulations on transparency. The National Digital Platform system shall include the list of individuals, natural and legal persons, who are barred from contracts with public bodies arising from administrative procedures other than those provided for by this Law.

Article 45. The Secretariats or internal control bodies shall supervise the execution of public procurement procedures by the contracting parties, to ensure that they are carried out in accordance with the relevant provisions, carrying out the appropriate checks if they discover anomalies.

Article 59. A public servant who authorises any type of hiring, as well as the selection, appointment or designation, of anyone prevented by legal provision or disqualified by a resolution of the competent authority from occupying a job, shall be responsible for improper hiring, position or commission in the public service or disqualified from contracting with public bodies, provided that in the case of disqualifications, at the time of authorisation, they are registered in the national system on the National Digital Platform listing public servants and individuals who have been subject to sanctions.

Article 70. An individual who executes with one or more private parties, in matters of public contracting, actions that involve or have the object or effect of obtaining an undue benefit or advantage in federal, local or municipal public contracting, shall be deemed to collude. Collusion shall also be considered to be collusion when individuals agree or enter into contracts, agreements, arrangements or combinations between competitors, the object or effect of which is to obtain an undue advantage or to cause

damage to the tax authorities or to the assets of public bodies. When the infraction has been carried out through an intermediary with the intent to obtain some benefit or advantage in the public procurement in question, both shall be punished under this Law. [...]

Articles 21, 43, 44, 45, 59 and 70 of the LRA of Mexico City are aligned with the public procurement provisions of the LGRA.

Source: The General Law on Administrative Responsibilities.

7.3.2. Encouraging integrity among procurement officials through tailored training programmes and developing a clear integrity capacity strategy.

Public procurement is increasingly recognised as a strategic profession, playing a key role in preventing mismanagement, waste and potential corruption. The *OECD Recommendation on Public Procurement* recommends that adherents to ensure that procurement officials meet high professional standards for knowledge, practical implementation and integrity by providing a dedicated and regularly updated set of tools to require high standards of integrity for all stakeholders in the procurement cycle. All actors involved in the procurement process should demonstrate high standards of integrity, to cultivate integrity in the procurement process (OECD, 2015^[2]).

A prerequisite for any institution is the clear identification of officials working in public procurement. Mexico City could not provide information on the size of the public procurement workforce. However, the *Oficialía* is conducting a diagnostic evaluation of public procurement officials, collecting detailed information on their background. As a first step, Mexico City should clearly identify all officials involved in the procurement process, so strategies can be formulated to enhance the system's integrity and efficiency.

The Administrative Office of the Government of Mexico City (*Oficialía Mayor*) and the Office of the Comptroller-General (*Contraloría de la Ciudad de México*) have been providing training on public procurement to enhance understanding of public procurement processes. The Office of the Comptroller-General organised those training sessions with Mexico City's School of Public Administration (*Escuela de Administración pública de la ciudad de México*). However, information gathered in the fact-finding mission suggests that integrity issues are not directly covered in the training.

In 2014, in addition to those courses, at the request of the Administrative Office of the Government of Mexico City (*Oficialía Mayor*), a certification programme for public procurement officials was established in the School of Public Administration to ensure that the officials have the knowledge, experience and capacity for their duties. This certification also covered integrity issues, but was intended only for directors (strategic level) and heads of units (operational level), not for all public procurement officials. Mexico City should generalise the certification to all levels of officials working on public procurement, tailoring the programme to their responsibilities, with a focus on integrity.

In the capacity-building area, developing e-learning tools is a relatively cost-efficient way to increase capacity. The Office of the Comptroller-General runs online courses covering topics including public procurement, public ethics, and public works. The courses are intended for the general public and civil society, but can also be undertaken by public officials. However, the courses are not accessible online, which undercuts the efforts of the Office of the Comptroller-General to develop the training. For this initiative to bear

fruit, the Office of the Comptroller-General should leverage its IT system to ensure the constant availability online of e-learning courses. Moreover the city's Public Administration School provides online courses covering integrity issues. It seems from information provided during the fact-finding mission that their content was theoretical rather than relevant to the daily work situations public officials encounter in exercising their duties. E-learning courses tailored to public procurement officials' daily work situations could be helpful.

7.3.3. Promoting transparency and a merit-based approach to hiring, and generalising use of the EPI to all the city's procurement officials.

In addition to the *OECD Recommendation of the Council on Public Procurement*, the *OECD Recommendation of the Council on Public Integrity* promotes a merit-based approach by employing professional, qualified people with a deep commitment to integrity in public service. For transparency, all vacant positions of public officials should be published online and a competitive process should be instituted, to ensure a merit-based approach. Mexico City does not have a civil service career in the public sector (see Chapter 3.) and thus, except for unionised officials, public officials have contracts of limited duration. The law stipulates that any posts vacant be published on the government entities' website and a competitive selection process be carried out, but not all entities apply the law. This holds true for public procurement officials. Mexico City should then consider promoting transparency and a merit-based approach in its hiring procedures.

In July 2016, Mexico City introduced a new recruitment evaluation mechanism: the Integral and Preventing Evaluation, EPI (*Evaluación Preventiva Integral*). The EPI (see Box 3.11) is intended to evaluate public officials' behaviour starting at the recruitment stage, and continuing to the termination of employment. It consists of four evaluations seeking to measure public officials' level of trust, reliability, integrity and professional competences: with a psychometric test, psychological test, socio-economic investigations and polygraph examinations.

The EPI is not used for all procurement officials, however. It is not applicable either 1) for unionised officials, officials working in ministries, territorial demarcations (*delegaciones*), deconcentrated administrative bodies and other government entities of Mexico City public administration, or 2) for officials moving from one organisation to another without a salary increase. This is intended to ensure the hiring of officials of integrity, but no action is planned for officials already working as procurement officials. Mexico City should consider generalising the use of EPI for procurement officials of all CAs of the city and develop a dedicated mechanism for officials already working as public procurement officials.

7.3.4. Raising awareness in the private sector about the risk of corruption.

Public procurement contracts should contain "no corruption" warranties and measures should be implemented to verify the truthfulness of suppliers' guarantees that they have not and will not engage in corruption in connection with the contract. One possibility is to include Integrity Pacts for every procurement procedure. These are agreements between the contracting authority offering a contract and the potential suppliers willing to submit a bid. The agreement provides that potential suppliers abstain from bribery, collusion and other corrupt practices for the extent of the contract. The legal representatives of firms are then aware and directly accountable for the unlawful behaviour. In some OECD countries, integrity pacts have been used as an effective tool in fighting corruption.

Article 33 XXI of the PPL foresees that legal representatives of bidders should submit a declaration under oath that they are not under one of the restrictive cases provided for in Article 39 of the PPL and Article 37 of the PWL. These include cases associated with the poor performance of suppliers and their compliance with the PPL, but also cases related to the integrity of the system. If a potential supplier falls in such a case, CAs are prohibited from entering into contract with it (see Box 7.12, describing cases related to integrity breaches). In addition to the declaration under oath, bidders have to submit a declaration that they have no conflict of interest (see section 7.4).

Box 7.12. Cases in which bidders are excluded from contracts

I. Those in which the public servants involved in any way in the bidding and award of the contract has a personal, family or business interest, including those that may be of benefit to them, their spouse or blood relatives until the fourth degree by affinity or civil, or for third parties with whom they have professional, work or business relations, or for partners or companies of which the public servant or the aforementioned persons form or have been a member;

II. Those who hold a job, position or commission in the federal public service or the Federal District, or have performed it until one year before the publication of the call, or date of conclusion of the contract (direct awards), or without the prior written authorisation of the Comptroller in accordance with the Public Servants' Responsibilities Act, as well as persons incapable of performing a job, position or commission in the public service.

V. Those who have provided information that is false, those who have provided information or documentation whose issuance is not recognised by the competent public person or those who have acted with intent or bad faith at some stage of the tender procedure or in the process for the award of a contract, at its conclusion, during its validity, or during the presentation or dismissal of a nonconformity;

VI. Those who have entered into contracts in contravention of the provisions of this Act or those that unjustifiably and for reasons attributable to them do not formalise the contract awarded;

IX. Those that by themselves or through companies that are part of the same business group, make opinions, expert opinions and appraisals, that are required to settle disputes between such persons and the dependencies, deconcentrated bodies, delegations and government entities;

X.- Those that are prevented by resolution of the Comptroller in the terms of Title 5 of this provision and Title Six of the Public Works Act of the Federal District, or by resolution of the Ministry of Public Administration of the Federal Government or of the competent authorities of the governments of the federal entities or municipalities;

XI. Natural or legal persons, government entities' partners, or their representatives, who are affiliated with others who are participating in the same procedure;

XII.- Those individuals, partners of legal persons, their administrators or representatives, who form or have been a part of the same at the time of committing the infraction, who are prevented by resolution of the Comptroller, the Ministry of Public Administration of the Federal Government or the competent authorities of the

governments of the federal entities or municipalities;

XIV. When it is verified by the convenor during or after the tender or restricted invitation or procedure or the conclusion or within the term of the contracts, that some supplier agreed with another or others to raise the prices of the goods or services.

XV. Others that for any reason are prevented from doing so by legal provision.

Source: Mexico City Public Procurement Law,

http://www3.contraloriadf.gob.mx/prontuario/index.php/normativas/Template/ver_mas/65234/31/1/1.

Despite these measures, it is still necessary to increase awareness of corruption risks in the private sector. Indeed, raising awareness only for the public sector is not the most efficient approach for ensuring high integrity standards. The public sector can play a key role in fostering the awareness of the private sector by organising trainings and capacity building activities on integrity issues.

In Mexico City, no specific actions have been developed with the private sector to enhance the integrity of the system. In addition to targeting suppliers and potential suppliers directly, by organising awareness- raising sessions and trainings on integrity issues, Mexico City could also benefit from developing measures with chambers of commerce and federations that play a key role in reaching suppliers and raising their awareness.

Potential suppliers should also be encouraged to take voluntary steps to reinforce integrity in their relationship with the government. These include codes of conduct, integrity training programmes for employees, corporate procedures to report fraud and corruption, internal controls, certification and audits by a third independent party. In Mexico, at the federal level, the Ministry of Public Administration (SFP) developed the Business Integrity Programme Model in 2017 (see Box 7.13).

Box 7.13. Mexico's Business Integrity Programme Model

To help design and implement Business Integrity Programmes, in line with the provisions of Article 21 and 25 of the Law on Administrative Responsibilities, the Ministry of Public Administration (*Secretaría de la Función Pública*, or SFP) provides a Business Integrity Programme Model.

The document includes suggestions, good practices, general guidelines that the private sector could implement. In addition, it includes also examples of implementation from firms from different sectors.

The main objective of this document is to support the private sector.

Source: (Secretaría de la Función Pública, 2017^[10]), Modelo de Programa de Integridad Empresarial, https://www.gob.mx/cms/uploads/attachment/file/272749/Modelo_de_Programa_de_Integridad_Empresarial.pdf.

7.4. Encouraging public integrity through an effective management of conflict of interest in the procurement process

Integrity in the public sector requires adherence to values and principles ensuring the ethical behaviour of public officials but also from the private sector. Serving the public interest is one of the major missions of governments and public institutions. Public procurement officials are expected to perform their duties with integrity, in a fair, unbiased way. Governments play a key role in ensuring that public officials do not allow their private interests to compromise official decision making and public management.

To guarantee the integrity of the system, public officials need clear guidelines, to ensure a clear identification of conflicts of interest and mechanisms for managing them.

7.4.1. Complementing the general Code of Ethics with a specific code of conduct/code of ethics for procurement officials

The *OECD Recommendation of the Council on Public Procurement* and the *OECD Recommendation of the Council on Public Integrity* recommend requiring high standards of integrity for all stakeholders in the procurement cycle. Those standards can be reflected in integrity frameworks or codes of conduct applicable to public-sector employees. The codes of conduct should clarify expectations and serve as a basis for disciplinary, administrative, civil and/or criminal investigation and sanctions, as appropriate. They can also set out in broad terms the values and principles that define the professional role of the civil service or they can focus on the application of such principles in practice.

In some high-risk areas, officials need specific guidance and standards to mitigate the risks associated with the complexity of the area. Public procurement is one concrete example of such a high-risk area; so developing standards for procurement officials, and in particular, specific restrictions and prohibitions, aim to ensure that officials' private interests (see Chapter 3.) do not improperly influence the performance of their public duties and responsibilities (see Box 7.14 on Canada's procurement Code of Conduct).

Box 7.14. Code of conduct for procurement in Canada

The Government of Canada is responsible for maintaining the confidence of the vendor community and the Canadian public in the procurement system, by conducting procurement in an accountable, ethical and transparent manner.

The Code of Conduct for Procurement will aid the government in fulfilling its commitment to reform procurement, ensuring greater transparency, accountability, and the highest standards of ethical conduct. The Code consolidates the government's existing legal, regulatory and policy requirements into a concise and transparent statement of the expectations the government has of its employees and its suppliers.

The Code of Conduct for Procurement provides all those involved in the procurement process – public servants and vendors alike – with a clear statement of mutual expectations to ensure a common basic understanding among all participants in procurement.

The code reflects the policy of the Government of Canada and is framed by the principles set out in the Financial Administration Act and the Federal Accountability Act. It consolidates the federal government's measures on conflict of interest, post-employment measures and anti-corruption, as well as other legislative and policy requirements relating specifically to procurement. This code is intended to summarise existing law by providing a single point of reference on key responsibilities and obligations for both public servants and vendors. In addition, it describes vendor complaints and procedural safeguards.

The government expects that all those involved in the procurement process will abide by the provisions of this code.

Source: Public Works and Government Services Canada (PWGSC) (n.d.), *The Code of Conduct for Procurement*, www.tpsgc-pwgsc.gc.ca/app-acq/cndt-cndct/contexte-context-eng.html (accessed 17 June 2017).

To safeguard the integrity and ethics in Mexico City, the city has three main instruments (see Chapter 3.): the Federal Law of Public Servants' Responsibilities (*Ley Federal de Responsabilidades de los Servidores Públicos*, or LFRSP), the Ethics Code (*Código de Ética de los servidores públicos para el Distrito Federal*, or CESPFD) adopted in 2014 and a Charter of Duties of Public Officials (*Carta de Obligaciones de los servidores públicos*, or COSP). All public officials in Mexico City should follow the provisions specified in those instruments. However, given that public procurement is a high-risk area, Mexico City could benefit from developing a specific code of conduct for public officials working in procurement activities, given that at the federal level, specific guidelines are to be implemented in the context of the National Anti-corruption System.

7.4.2. Generalising conflict of interest policies to all officials working on public procurement and monitoring them effectively.

A conflict of interest arises when individuals or corporations (either in the government or private) is in a position to exploit their professional or official capacity in some way for personal or corporate benefit. Most common conflicts of interest are related to personal, family or business interests and activities, gifts and hospitality, disclosure of confidential

information, and future employment. Public procurement positions are thus considered high-risk positions.

The regulatory framework of Mexico City to safeguard the integrity of the system is fragmented (see Chapter 3.). Provisions related to conflicts of interest are disseminated in the Law on Administrative Responsibilities, the Ethics Code, and the Charter of Duties of Public Officials. In 2014, complementing its regulatory framework related to integrity, Mexico City developed a conflict of interest policy based on four types of declarations:

1. asset declaration
2. declaration of conflict of interest
3. tax declaration
4. declaration of no conflict of interest.

This preventive system aims to reduce significantly integrity breaches in both the public and the private sector. While the three first declarations should be submitted by public officials, the last one (declaration of no conflict of interest) should be submitted by public officials but also by bidders. The three first declarations should be submitted on a yearly basis; but a declaration of non-conflict of interest should be submitted by public officials participating in the procurement activity and the bidders for every tender/ procurement activity.

A first step is to determine which public officials are subject to the different declarations. Table 3.6 in Chapter 3. of this review provides a description of public officials subject to public disclosure in the current conflict of interest legal framework. However, the fact-finding mission suggested that implementation of the different declarations in terms of targeted audience is inconsistent. In some cases, only heads of units submit the declarations, and in other cases, they are submitted by other officials participating in the tender procedure.

From the information collected during the fact-finding mission, five categories of officials are directly involved in the procurement process:

1. heads of CAs
2. officials in charge of the tender procedure
3. officials in the technical area
4. officials assisting in the preparation of the procurement procedure (*personal de base- unionised*)
5. members of the procurement committee.

All those officials can have access to information related to a specific procurement procedure and could potentially have an influence in the decision-making process. Mexico City should require all public officials intervening in the procurement process to fill all declarations (when applicable), and in particular a declaration of non-conflict of interest.

The management of conflict of interest in Mexico City consists basically in monitoring public officials' compliance to submit their declarations of assets, tax and interests rather than implementing within the organisation effective preventing mechanisms to avoid exposing public officials to a conflict of interest.

The Office of the Comptroller performs random checks on some declarations submitted by public officials. However, it has limited staff capacity to conduct checks, and has not developed a strategy targeting in priority high-risk areas such as public procurement and specific procurement procedures. Mexico City should grant the control body access to the information submitted in the different declarations, to monitor the data submitted.

7.5. Strengthening the accountability, control and risk management system for public procurement processes

7.5.1. Strengthening the review system by introducing alternative mechanisms and enhancing the system's transparency.

Any stakeholder, including unsuccessful tenderers, who believes that the public procurement process was conducted in violation of relevant laws, must have access to an effective review and remedy mechanism. Those mechanisms help build confidence among businesses and increase the overall fairness, lawfulness and transparency of the procurement procedure. The OECD recommends that complaints be handled in a fair, timely and transparent way, by setting up an effective course of action to challenge procurement decisions to correct defects, prevent wrongdoing and build the confidence of bidders, including foreign competitors, in the integrity and fairness of the public procurement system (OECD, 2015^[2]).

In Mexico City, bidders may challenge a public procurement procedure by submitting a written request to the Office of the Comptroller five days after the issuance of a decision. The Office of the Comptroller-General must then issue a decision within ten days of an audience. No alternative mechanisms are in effect in Mexico City. The Office of the Comptroller-General did not provide information on the number of challenges to procurement decisions. However, during the fact-finding mission, members of civil society noted that very few challenges are attempted, given the lack of trust in the system. Mexico City should consider introducing alternative mechanisms to improve its remedies system.

Decisions issued by the Office of the Comptroller-General are not published online; but the information can be accessed on request. To improve the transparency of the remedies system, Mexico City would benefit from publishing those decisions.

In many OECD countries, decisions can be challenged by all stakeholders, including civil society and potential suppliers not participating in the procurement procedure. However, in Mexico City, only bidders participating in a procurement procedure can challenge decisions. To enhance trust in the system, Mexico City should consider the possibility of enabling all stakeholders to challenge procurement decisions.

7.5.2. Updating procedure manuals and enhancing the capacity of officials in charge of controlling public procurement activities.

The oversight of procurement activities is essential in supporting accountability and promoting integrity and efficiency in the public procurement process. Without an adequate control system, an environment is created in which assets are not protected against loss or misuse; good practices are not followed; goals and objectives may not be accomplished; and individuals are not deterred from engaging in dishonest, illegal or unethical acts. It is particularly important to have functioning internal controls in procurement, including financial control, internal audit and management control (OECD,

2007^[11]). The Office of the Comptroller is the government entity in charge of performing those controls and thus safeguarding the integrity of the system.

In Mexico City, every contracting authority (CA) has a procedural manual approved by the General Co-ordination of Administrative Modernisation (CGMA) which is responsible for determining whether each manual meets basic requirements. When performing controls, officials from the Office of the Comptroller have to verify that procurement activities are in line with requirements set in the manual. However, interviews with stakeholders suggest that the manuals are not always updated and do not take into account external parameters and processes that do not depend on the CAs. Mexico City should consider updating procedure manuals and aligning them with current processes.

Public procurement is no longer considered an administrative activity. To perform controls on procurement activities, officials need to understand the procurement framework and the systems and processes in place. It is crucial for countries and institutions to assess not only the capacity of public procurement officials but of officials in charge of procurement oversight (see Box 7.15).

Interviews with internal controllers and auditors from the Office of the Comptroller-General in charge of controlling public procurement activities suggest that they face two main challenges. The first concerns their capacity, since they have not been specifically trained on public procurement and perform their tasks without a thorough knowledge of the specific risks of public procurement activities. The second main issue concerns the number of officials assigned to perform these controls. Given the number of procedures, different stakeholders called for increasing the number of officials in charge of controlling public procurement activities, and thus the number of controls. Mexico City could benefit not only from enhancing the capacity of internal controllers on public procurement but from increasing the number of officials working in this field.

Box 7.15. Assessing officials in charge of procurement oversight

Assessing auditors and staff in charge of procurement oversight is of upmost importance and will require identifying the broad spectrum of procurement-related jobs, including staff related to public finance management and budgeting, such as public accountants, auditors and controllers in order to integrate public procurement into overall public finance management, as outlined in the *2015 OECD Recommendation on Public Procurement*.

Staff in charge of preserving the integrity of the public procurement system should also be assessed, since public procurement is a high-risk area due to the close interaction between private and public sectors: administrative and internal control, anti-corruption control and competition control.

It may be helpful to consider the following indicators:

- Indicator on the time/part spent on public procurement issues: To identify the workforce involved in acquisitions as a secondary, and not primary, duty.
- Indicator on staff capabilities: Number of staff with a diploma or certificate or training in public procurement or related domains:
- Whether such staffs are in line positions that makes effective use of their skills is another related indicator.
- Years of practice required before providing controls over contracts

Source: (OECD, 2016^[12]), *Roadmap: How to Elaborate a Procurement Capacity Strategy*.

7.5.3. Publishing reports of citizen comptrollers to add transparency to the public procurement system

The *OECD Recommendation on Public Procurement* recommends the provision of direct opportunities for direct involvement of relevant external stakeholders in the procurement system. The goal is to increase transparency and integrity while ensuring adequate scrutiny. Meanwhile, confidentiality, equal treatment and other legal obligations in the procurement process must be maintained (OECD, 2015^[2]). A new control mechanism Mexico City introduced in 2007 was the involvement of Citizens Comptrollers in the procurement process. Mexico is one of the first OECD countries to introduce the concept of “Social Witnesses” or “Citizen Comptrollers” in public procurement activities at the national and federal level (see Box 7.16).

Box 7.16. Social Witness in Mexico

As the General Law of the National Anti-corruption System provides a strong role for civil society within the governance of the System, the public procurement system provides civil society opportunities to participate in public procurement processes.

As one of the first OECD countries, Mexico has introduced Social Witnesses (*testigos sociales*), who have been required to participate in all stages of public tendering procedures above certain thresholds, since 2009. At federal level, these thresholds are MXN 400.2 million (approximately USD 18.6 million) for goods and services and MXN 800.4 million (approximately USD 37.2 million) for public works in 2015. Social witnesses may also participate in public tendering procedures below the legal threshold, direct award procedures and restricted tendering, if it is considered appropriate by the Ministry of Public Administration (*Secretaría de Función Pública* or SFP).

Social Witnesses are selected by SFP through public tendering (*Convocatoria pública para la selección de personas físicas y morales a registrar en el padrón público de testigos sociales*) and selected witnesses enter a pool (*Padrón Público de Testigos Sociales*), for a period of three years. Their names are published online. As of October 2016, SFP had registered 25 Social Witnesses for public procurement projects, six civil society organisations and 19 individuals.

The Social Witnesses are certified and their performance evaluated by the ministry (unsatisfactory performance could result in their removal from the registry). They also get certified and compensated for their services. When a federal entity requires the involvement of a Social Witness, SFP designates one from the preselected pool. Following their participation in procurement procedures, Social Witnesses issue a final report providing comments and recommendations on the process. These reports are made available to the public through the Mexican federal e-procurement platform, CompraNet.

Source: (OECD, 2017^[13]), *OECD Integrity Review of Mexico*, OECD Publishing, Paris.

A Citizen Comptroller is an honorific and volunteer position. They receive accreditation from the Office of the Comptroller-General after being trained on public procurement and other topics. Unlike Social Witnesses, Citizen Comptrollers are not paid to perform their duties. In 2016, Mexico City had 892 Citizen Comptrollers; the city is willing to increase their number and has recently published a call for new Citizen Comptrollers. Their main role is to oversee public procurement activities at all phases of the procurement process. In the tender preparation phase, they should review tender documentation and participate in procurement committees; in the tendering process, they should attend the bid opening session and the clarification meeting; in the contract management phase, they are entitled to control the performance of the contract by suppliers. Citizen Comptrollers should submit their reports to the Office of the Comptroller-General, signalling any infringement on the procurement regulatory framework. However, the reports are not published online, unlike Social Witness reports in the national system. To add transparency to public procurement, Mexico City could benefit from publishing the reports of Citizen Comptrollers online.

7.5.4. Providing officials from the Office of the Comptroller-General and Citizen Comptrollers documents and sharing information on the related procurement events they should attend in advance.

The public procurement regulatory framework mentions that participants to the procurement committee should receive the documentation and be informed at least two days in advance for ordinary sessions and one day in advance for extraordinary sessions. In line with the regulatory framework, in practice officials from the Office of the Comptroller-General and Citizen Comptrollers receive documents in general two days before the meeting.

However, given the size of the documents, the timeline allowed by the legal framework is not sufficient to review in depth all the tender documentation to ensure the compliance with the legal framework and detect breaches of integrity. Neither do the timelines ensure the availability of officials from the Office of the Comptroller and Citizens Comptrollers to attend the different events. Better planning and review of timelines in the procurement regulatory framework will enhance the efficiency of the control system.

7.5.5. Implementing performance audit by developing indicators.

The essential role of external audit in detecting and investigating fraud and corruption in procurement is now generally recognised, as well as that of suggesting systemic improvements. External audit institutions have the key task of identifying strengths and weaknesses in the execution of public procurement operations at the level of contracting authorities. These *ex post* audits aim to determine the extent of compliance or non-compliance with laws and regulations, as well as the performance and achievements in relation to the objectives and targets set for a procurement activity (OECD-SIGMA, 2011).

The OECD recommends to have an independent and professional Supreme Audit Institution (SAI) supported by a legal framework, which allows for high-quality audits that have an impact on public sector operation. In Mexico City, the local Supreme Audit Institution plays a key role in controlling and ensuring the integrity of the procurement system. The SAI performs its controls based on four criteria: 1) funds allocated 2) relevance, 3) coverage and 4) citizens' interest. The Office of the Comptroller-General and the SAI co-ordinate their compliance audit which is considered a good practice.

As for performance audit, the clear lack of indicators at the contracting authority level makes it nearly impossible to perform such audits. Mexico City should consider developing key performance indicators to conduct performance audits and enhance the efficiency and integrity of the system.

7.5.6. A risk-mapping strategy could enhance the efficiency and integrity of the procurement process

The basis for an adequate oversight and control system is a risk analysis of the processes. Public procurement activities need a comprehensive assessment of all types of risks: corruption, fraud, supply disruption, etc. A proper risk assessment exercise will require defining the risks associated with public procurement procedures, identifying the controls in place to mitigate these risks, and adding other controls necessary to address any existing gaps.

The identification of integrity risks throughout the procurement process is crucial to safeguard the integrity and efficiency of the system. A holistic approach for risk mitigation and corruption prevention is needed. Focusing integrity measures solely on one step in the process may increase risks in other stages (see Table 7.2).

Table 7.2. Corruption risks associated with the different phases of the procurement cycle

	Phase	Corruption risks
Risks of the pre-tendering phase	Needs assessment	<ul style="list-style-type: none"> • Lack of adequate needs assessment • Influence of external actors on officials' decisions • Informal agreement on contract
	Planning and budgeting	<ul style="list-style-type: none"> • Poor procurement planning • Procurement not aligned with overall investment decision-making process • Failure to budget realistically or deficiencies in the budget
	Development of specifications/ requirements	<ul style="list-style-type: none"> • Technical specifications are tailored to a specific company • Requesting samples of goods and services that can influence • Selection criteria is not objectively defined and not established in advance • Buying information on the project specifications.
Risks of the tendering phase	Choice of procurement procedure	<ul style="list-style-type: none"> • Lack of procurement integrity for the use of non-competitive procedures • Abuse of non-competitive procedures on the basis of legal exceptions: contract splitting, abuse of extreme urgency, non-supported modifications
	Request for proposal/bid	<ul style="list-style-type: none"> • Absence of public notice for the invitation to bid • Evaluation and award criteria are not announced • Procurement information is disclosed and made public
	Bid submission	<ul style="list-style-type: none"> Lack of competition or cases of collusive bidding: <ul style="list-style-type: none"> • cover bidding • bid suppression • bid rotation • market allocation
	Bid evaluation	<ul style="list-style-type: none"> Conflict of interest and corruption in the evaluation process through: <ul style="list-style-type: none"> • familiarity with bidders over time • personal interests such as gifts or future/additional employment • no effective implementation of the "four eyes-principle"
	Contract award	<ul style="list-style-type: none"> • Vendors fail to disclose accurate cost or pricing data in their price proposals, resulting in an increased contract price (i.e. invoice mark-ups, channel stuffing) • Conflict of interest and corruption in the approval process (i.e. no effective separation of financial, contractual and project authorities) • Lack of access to records on the procedure
Risks of the post-award phase	Contract management/ performance	<ul style="list-style-type: none"> • Abuses of the supplier in performing the contract, in particular in relation to its quality, price and timing • Substantial change in contract conditions to allow more time and/or higher prices for the bidder • Product substitution or sub-standard work or service not meeting contract specifications • Theft of new assets before delivery to end user or before being recorded • Deficient supervision from public officials and/or collusion between contractors and supervising officials • Subcontractors and partners chosen in an untransparent way or not held accountable
	Order and payment	<ul style="list-style-type: none"> Deficient separation of financial duties and/or lack of supervision of public officials leading to: <ul style="list-style-type: none"> • False accounting and cost misallocation or cost migration between contracts • Late payments of invoices • False or duplicate invoicing for good and services not supplied and for interim payment in advance entitlement.

Source: (OECD, 2016^[14]), *Towards Efficient Public Procurement in Colombia: Making the Difference*, OECD Public Governance Reviews, OECD Publishing, Paris.

Although risks listed in Table 7.2 may exist in all government entities, their probability depends on the measures implemented at the country/state or at the entity level, including the type and frequency of controls performed by the relevant government entities.

Mexico City did not develop a risk-mapping strategy for procurement activities, enabling each government entity to identify the existing risks and then to implement mitigation measures to counter those risks. Many OECD countries have developed a specific risk mapping strategy for procurement procedures, including a risk evaluation (see Box 7.17 for an example of risk mapping strategies developed in Tasmania, Australia). After developing a risk mapping strategy, Mexico City will have to raise public officials' awareness of the issue, in particular of those working on public procurement, of the different risks they face.

Box 7.17. Checklist from Tasmania, Australia, of potential risks in the goods and services procurement process

The Tasmanian government has developed a checklist of potential risks in the procurement cycle:

1. identifying the need and planning the purchase
2. developing the specification
3. selecting the purchasing method
4. purchasing documentation
5. inviting, clarifying and closing offers
6. evaluating offers
7. selecting the successful tenderer
8. negotiations
9. contract management
10. evaluating the procurement process
11. disposals.

Risks	Likely consequences	Action
Understatement of the need	Purchase of unsuitable product or service Money wasted Need not satisfied	Analyse need accurately
Overstatement of the need	Greater expense Poor competition	Analyse need accurately Use functional performance requirements
Misinterpretation of user needs	Totally unacceptable purchase or not most suitable product or service Time lost Increased costs Possible downtime	Improve consultation with users Obtain clear statement of work and definition of need
Insufficient funding	Additional costs for re-tender Delay in making the purchase	Obtain appropriate approvals before undertaking process Improve planning

Source: (OECD, 2015^[8]), *Effective Delivery of Large Infrastructure Projects: The Case of the New International Airport of Mexico City*, OECD Publishing, Paris.

7.5.7. Ensuring a system of effective and enforceable sanctions for procurement officials.

A proportional and effective sanctioning system in detecting illicit behaviour can act as an effective deterrent to engaging in corrupt behaviour. The OECD recommends developing a system of effective and enforceable sanctions for government and private-

sector procurement participants, in proportion to the degree of wrongdoing, to provide adequate deterrence without creating undue fear of consequences or risk-aversion in the procurement workforce or supplier community (OECD, 2015^[2]).

For integrity breaches and depending on their severity (see Chapter 2.), three types of sanctions can be imposed on public officials: criminal sanctions, administrative sanctions and financial sanctions. Administrative sanctions range from public and private warnings, suspensions, dismissal and disqualification from occupying a position, but also pecuniary sanctions based on the severity of the breach. Mexico City did not provide the number of procurement officials who have been subject to those sanctions. The only information available is that in 2016-2017, 2 001 public officials were subject to administrative sanctions (see Box 3.8 in Chapter 3.).

The current integrity framework does not provide clear guidelines on how to define the severity of the sanctions. This means that two procurement officials committing the same infraction might be subject to different sanctions if judged by two different officials from the Office of the Comptroller-General. Mexico City should thus consider providing more consistency in applying sanctions depending on their severity.

7.5.8. Enhancing the management of punished and blacklisted suppliers

As for sanctions for private sector procurement participants, in addition to criminal sanctions, Mexico City has developed a system for blacklisting suppliers. Article 39 of the PPL and 37 of the PWL define restrictive cases to enter into contract with potential suppliers (see Section 7.2). Those cases concern the poor performance of suppliers and their failure to abide by the regulatory framework, but also to integrity breaches. When a supplier falls in one of those cases, before the Office of the Comptroller excludes him from public procurement activities, a clear process described in Article 81 of the PPL and 37 of the PWL must be followed, which includes an audience with the concerned supplier. The final decision must be published in the *Official Gazette* and online.

Economic operators falling in those cases are listed in the anti-corruption portal in three categories, with information on their name, company's registration number, type of breach/infringement, duration of the sanction, etc. However the anti-corruption portal does not contain a search engine or offer the possibility of filtering by supplier name, type of infraction, duration of the sanction, etc. , which would make the use of the information simpler for procurement officials. Mexico City could benefit from a more user-friendly webpage for blacklisted suppliers by adding a search engine and the possibility of adding filters.

In addition to the list of blacklisted suppliers published on the anti-corruption portal, a list of suppliers of public works who did not complete the contract within the stipulated timeframe is published on the website of the Office of the Comptroller-General (<http://cgservicios.df.gob.mx/contratistas/>). Currently, only one supplier appears on the list, which calls into question how reliable the information published is.

Before awarding a contract, public procurement officials are required to check the two lists mentioned above as well as the list of blacklisted suppliers published by the Ministry of Public Administration. To increase efficiency, Mexico City could aggregate the information available in the different locations on a single webpage.

Proposals for action

To enhance the integrity of the public procurement system, Mexico City could undertake the following actions:

Enhancing transparency and access to information on public procurement processes and activities

- Mexico City could benefit from enhancing the access to procurement opportunities and the efficiency of the system by reducing the cases of legal exceptions to open and competitive tendering.
- Mexico City should consider strengthening controls on public procurement by enhancing the monitoring of exceptions to competitive tenders.
- Mexico City should encourage the transparency and the digitalisation of the procurement system by developing a comprehensive e-procurement system.
- Mexico City could benefit from implementing and enhancing electronic tools such as electronic price catalogues and suppliers' registries.
- Mexico City should consider providing an adequate and timely degree of transparency in each phase of the procurement cycle by enforcing the provisions of the Transparency Law, to access procurement information.
- Mexico City could benefit from encouraging the use of the open contracting portal by all contracting authorities.
- Mexico City should consider extending deadlines for economic operators to submit their bids.
- Mexico City could benefit from introducing the prepublication of tender documents in its procurement legal framework.

Preserving integrity and promoting a culture of integrity among public procurement officials, potential suppliers and civil society

- Mexico City could benefit from developing a tailored anti-corruption strategy for public procurement in line with the anti-corruption system and integrity reforms and reviewing its procurement regulatory framework.
- Mexico City should further encourage a culture of integrity among procurement officials by introducing tailored training programmes and by developing a clear integrity capacity strategy.
- Mexico City should further promote transparency and a merit-based approach in its hiring procedures, and generalise the use of the EPI to all procurement officials of the city.
- Mexico City should further engage with the private sector to reduce risks of corruption in the framework of public procurement, by organising awareness-raising sessions and training for the private sector.

Encouraging public integrity through an effective management of conflict of interest in the procurement process

- Complementing the general Code of Ethics, Mexico City should consider developing a specific code of conduct/code of ethics for procurement officials.
- Mexico City should generalise the implementation of conflict of interest policies to all officials participating in the public procurement process and ensure their effective monitoring.

Strengthening the accountability, control and risk management system for public procurement

- Mexico City could consider strengthening its review system by introducing alternative mechanisms enhancing the transparency of the system by publishing decisions on complaints and enabling all stakeholders to challenge procurement decisions.
- Mexico City could benefit from updating the procedure manuals, enhancing the capacity of officials in charge of overseeing public procurement and increasing the number of officials working in the field.
- To increase transparency in the public procurement system, Mexico City could benefit from publishing the reports of Citizen Comptrollers online.
- Mexico City could enhance the efficiency of its control system by sharing well in advance information with officials from the Office of the Comptroller and Citizen Comptrollers and informing them of procurement events they should attend.
- Mexico City could benefit from implementing performance audits by developing new indicators.
- Mexico City should develop a risk-mapping strategy to enhance the efficiency and integrity of the procurement process.
- Mexico City should ensure a system of effective and enforceable sanctions for procurement officials, providing more accurate information on the application of sanctions depending on their severity.
- Mexico City could benefit from a more user-friendly webpage for blacklisted suppliers and centralising the information data on sanctioned suppliers on a single webpage.

Further reading

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UPGRADING THE LOCAL ANTI-CORRUPTION SYSTEM

This report provides an assessment of Mexico City's Local Anticorruption System (LACS). Based on international best practices and the OECD Recommendation on Public Integrity, the report reviews the institutional and co-ordination arrangements of the LACS; its regulatory framework; and the tools, programmes and processes necessary for a strategic approach to public integrity. It provides concrete suggestions for enhancing the design and implementation of the system, including cultivating a culture of integrity in government, the private sector and society; improving internal control and risk management; and upgrading public procurement policies to ensure value for money. If effective, the LACS has the potential not only to improve governance, deter corruption and boost citizen's trust in Mexico City, but also to influence the integrity culture in the country as a whole.

Consult this publication on line at <https://doi.org/10.1787/9789264306547-en>.

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