



# Policy measures to avoid corruption and bribery in the COVID-19 response and recovery

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The focus of this brief is to help policy makers, donor agencies, law enforcement officials and the private sector ensure that the global response to the crisis is not undermined by corruption and bribery.

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The coronavirus (COVID-19) crisis has brought about unprecedented challenges of human suffering, uncertainty and major economic disruption on a global scale. This can create environments that are ripe for corruption and bribery. For this reason, state and private sector responses to this crisis should include mechanisms for preventing, detecting and prosecuting corruption and bribery. Some corruption risks are immediate due to the actions taken to mitigate the health and economic crisis. Other risks will emerge in the medium to long term as the consequences and impact of COVID-19 emergency measures take greater effect. Under these circumstances, the progressive decline of citizen trust in public institutions and business will become even more evident. Identifying and addressing corruption risks will thus be crucial to protect trust in public institutions and business, and to galvanise public confidence in the governments' ability to mobilise an effective crisis response.



## Respect the rule of law, international anti-corruption standards and anti-bribery obligations

***It is imperative that fundamental safeguards of the rule of law and public integrity are not weakened or disregarded in both the immediate response as well as the longer-term recovery from COVID-19.***

Compliance with the OECD Anti-Bribery Convention and the related 2009 Recommendations, the OECD Recommendation on Public Integrity, and other key instruments such as the 2016 Recommendation of the Council for Development Co-operation Actors on Managing the Risk of Corruption is as important as ever in the current crisis. As governments transition from addressing the immediate health crisis to focusing on economic recovery, integrity violations and corruption risks may continue to rise and undermine recovery efforts. Corruption and foreign bribery are serious criminal offences, and investigations and prosecutions should not be influenced by considerations of national economic interest, the potential effect upon relations with another State or the identity of the natural or legal person involved. It is therefore imperative that fundamental safeguards of the rule of law and public integrity are not weakened or disregarded in both the immediate response as well as the longer-term recovery from COVID-19. Adequate resources for investigative agencies should be protected to permit effective detection, investigation and prosecution of corruption and bribery and to support international cooperation.

In fragile and conflict affected countries or regions of the world, the combination of weak institutional capacity to mobilise a response, together with increased citizen distrust, can quickly render these countries or regions unstable. In contexts such as these, a risk based approach to managing the COVID-19 response, could make the difference between immense human suffering or recovery and survival, and stability or instability and potential conflict.

## Address immediate risks in emergency procurement

***Whilst remaining cautious of the need to be able to respond to urgent needs, corruption risks should continue to be identified, assessed and actively mitigated on an ongoing basis, including by raising awareness of mitigation strategies. Corruption prevention measures under relevant OECD anti-corruption, integrity, procurement and competition standards should continue to apply.***

Many countries and institutions are buying and importing medical equipment and supplies through emergency procurement processes, and anecdotal reports of the proliferation of substandard products, price gouging and bribery are growing. OECD data already shows that many of the detected cases of foreign bribery have occurred in the health industry. Bribery distorts these markets and can lead to the supply of inferior or fake products, costing billions of euros a year and putting further lives at risk. In emergency policy decisions or procurement, due process may not always be followed and documentation may remain incomplete, making it difficult to conduct audits and inspections or investigations. The OECD's Foreign Bribery Report shows that risks of corruption are always present in public procurement, with 57% of foreign bribery cases involving public procurement. These risks are even more elevated in emergency procurement processes and this is particularly the case in developing countries where market gaps and inconsistencies in public procurement tend to be prevalent even before the onset of a crisis.

Recognising the particular pressures faced by developing countries, donors can contribute towards enabling informed, transparent and accountable citizen centric approaches to COVID-19, through support for the adoption of rapid response integrity instruments. Spot checks, supply tracking and monitoring, light-



touch financial and performance audits, citizen surveys or multi-stakeholder initiatives and observatories, are among the many tools that could be tailored to the relevant country context, and adopted to accompany the use of emergency administrative procedures to ensure accountability. Without the proper integrity and transparency safeguards in place, such emergency processes are highly susceptible to abuse. Indeed evidence from the 2013–2016 West African Ebola outbreak shows that procurement procedures were widely disregarded.<sup>1</sup> In the current crisis, media reports already allege the circumvention of procurement laws in several countries.

Accordingly, the current crisis requires governments to take a number of measures to ensure integrity in public procurement which already accounts for 13% of GDP in OECD countries. These include developing detailed guidelines on procurement strategies under a crisis, favouring recourse to existing collaborative procurement instruments such as framework agreements, and subjecting all emergency procurement processes to audit and oversight. To address integrity challenges in the long term, governments can consider reviewing existing emergency procurement legislation to ensure that it is relevant in the case of future global health emergencies, thereby avoiding the need to create new legislation or guidelines under tight timeframes. Governments may also leverage or expand the functionalities of existing e-procurement platforms to record transactional information on the procurement of emergency items, and create digital and easily accessible tools to allow the public to track all emergency purchases.

## Country examples on procurement

- The central purchasing body of Ireland, the Office of Government Procurement, developed an information note on good practices for contracting authorities during the COVID-19 outbreak.
- Similarly, the Ministry of Internal Affairs and Communications of Japan issued “Measures to be taken for public procurement by local governments in response to COVID-19”.

## Accountability and control of the economic recovery measures

***Anti-corruption risk assessments should be integrated throughout programme design and delivery phases, in the areas of economic stimuli, subsidies, official development assistance, and export credits. Actual instances of corruption and bribery should be addressed comprehensively, using a whole-of-government approach where possible.***

The unprecedented economic and fiscal measures being implemented to respond to the crisis will undoubtedly be exploited and measures need to be put in place to limit bribery and corruption risks. The measures represent a stress test for public integrity and public financial management systems, and more specifically internal control systems within public organisations. The pace of implementation of economic stimulus packages inevitably requires adapting or relaxing routine control measures and ex ante due diligence, or simplifying requirements. Despite the pressures facing internal control, internal audit and oversight functions within government, it is key to recall that these actors play a critical role in ensuring that public integrity is not compromised in the management of the economic stimulus packages and that these, in turn, produce the intended benefits. Internal auditors can act as backstops to address any temporary control gaps and flag risks to management as controls and requirements change, and can provide real-time assurance on the validity of transactions as a result of emergency measures, with the support of data matching and other analytical methods. Supreme audit institutions (SAIs) can keep abreast

<sup>1</sup> [www.u4.no/publications/ebola-and-corruption-overcoming-critical-governance-challenges-in-a-crisis-situation](http://www.u4.no/publications/ebola-and-corruption-overcoming-critical-governance-challenges-in-a-crisis-situation)



of the modifications made to the public financial management systems and identify potential risk areas and, where necessary, adapt their routine end-of-year report audit activities. Internal audit functions, SAIs and other oversight bodies can help promote transparency and high-quality open data to enlist the public in holding government officials accountable. Finally, both internal and external auditors are also well placed to support governments in managing risks in the short-term by providing useful insights to decision-makers on the integrity risks associated with emergency measures, such as cash outflows to businesses and individuals.

In order to avoid the risk of fueling corruption during the COVID-19 crisis, governments should be encouraged to support efforts such as monitoring public service delivery in the health sector, ensuring transparent procurement processes and management of health funds, as well as undertaking other targeted integrity efforts.

In the fiscal sphere, tax investigators should be vigilant when conducting ex post assessments of claims for emergency government benefits, and report suspicions of criminal conduct, including fraud, corruption and bribery, to law enforcement agencies (in this regard, see the [OECD Bribery and Corruption Awareness Handbook for Tax Examiners and Tax Auditors](#)).

With nearly €2.1 billion in bilateral official development assistance (ODA) currently committed to support developing countries as part of the crisis response, modelling integrity and taking a risk-based approach to guard against waste, leakage and corruption can serve to ensure the effective and efficient delivery of ODA support.

As our economies turn increasingly to digital solutions, for trade, business transactions, procurement, conferencing and meetings, we need to be aware of the risks related to digital technologies. For example, the increased volumes of smaller value goods pose difficulties to the monitoring and enforcement of standards, and to the implementation of risk strategies by border agencies. Challenges are also emerging due to the complex links between e-business solutions and areas such as taxation, revenue collection, payment systems, data flows, or logistics. In balancing risks and opportunities, especially in international business transactions, there is an important role for increased transparency and predictability, streamlined border processes, and more efficient inter-agency co-operation, to achieve the right trade-off between support and control.

## Country examples on accountability

- In New Zealand, a bipartisan parliamentary oversight committee has been established and given the task of overseeing the government's response to the current crisis, including the economic stimulus package. The committee meets remotely via video conferencing platform, and publishes these meetings online to ensure transparency.
- The United States' stimulus package allocates funding to the Government Accountability Office (GAO), the State Audit Institution, enabling it to assist Congress in conducting oversight over spending in relation to the current crisis.



## Business ethics, internal controls, and compliance

***Ensure a risk-based approach to good governance, business integrity and internal controls. The use of business intermediaries should be carefully considered.***

State Owned Enterprises and all private sector actors, including small businesses, should ensure that good governance and internal controls are maintained using a risk-based approach. Responsible authorities may wish to remind actors of their legal obligations and the consequences of not complying with the law. The use of business intermediaries needs to be carefully considered, particularly when shifting to new markets in manufacturing, supply chains and exports. Facilitation payments, if they are not already prohibited, should be discouraged and must in all cases be accurately accounted for in companies' books and financial records.

The crisis has heightened the dangers posed by the illicit trade, including global trade in counterfeit pharmaceutical products and wildlife trafficking. For example, a joint report by the OECD and the EU Intellectual Property Office has shown a growing international trade in counterfeit pharmaceuticals that continues to be seen in the context of the current crisis. Wildlife trafficking also attracts attention as scientists claim that smuggling of pangolins in South-East Asia could be one of the triggers of the current COVID-19 crisis. The OECD Task Force on Countering Illicit Trade has been looking at the threat of illicit trade, including trade in counterfeit pharmaceuticals and wildlife trafficking. It found that high levels of corruption was one of the key factors to influence the degree of export from an economy and identified key aspects of effective actions to counter illicit trade. One of them is a call for the conduct of anti-corruption investigations by police and anti-corruption authorities on the back of arrests for wildlife crimes, in order to identify and prosecute related criminal networks. The current crisis has seen a rise in organised crime groups penetrating businesses, taking advantage of emergency measures and low public trust in governments. For developing countries, addressing these issues takes on heightened urgency and complexity: organized crime can foster instability and impact longer-term development outcomes.

## Enforcement of corruption and bribery cases

***Whistleblowers are critical and must be protected. The use of existing reporting mechanisms should be encouraged and reports of misconduct taken seriously and investigated.***

Corruption and foreign bribery cases are already notoriously difficult to investigate and prosecute. Delays are often encountered and the consequences of current confinement measures could make this worse as administrative processes have slowed down. In developing countries, lack of government capacity and/or political can also deter investigation and prosecution. In light of reports that health professionals have received threats and been prevented from speaking out about the realities of COVID-19<sup>2</sup>, the protection of whistleblowers should be a priority. In addition to ensuring that investigative agencies have adequate resources to fulfil their duties, where statutory limitation periods are in place, consideration should be given to possibilities for suspending or extending these by appropriate means where necessary. Public administrations and law enforcement should ensure that measures are taken for the preservation of evidence, reports of misconduct are taken seriously and whistleblowers are protected.

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<sup>2</sup> [www.occrp.org/en/daily/12035-ti-calls-for-protection-of-covid-19-related-whistleblowers](http://www.occrp.org/en/daily/12035-ti-calls-for-protection-of-covid-19-related-whistleblowers)



## Further reading

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