

Chapter 10

Ensuring integrity throughout ISSSTE's procurement cycle

This chapter highlights how public procurement is particularly at risk for corruption in the pharmaceutical and health care sector. It describes the efforts made by Mexico and the State's Employees' Social Security and Social Services Institute (ISSSTE) to fight corruption and wrongdoing in procurement. The chapter also discusses the need for ISSSTE to complement its current discipline-based management of integrity risks with a value-based strategy. Various tools and mechanisms to strengthen detection, monitoring and management of corruption (e.g. red flags, data mining and enhanced whistleblowers' protection) in its procurement and distribution activities are also provided for ISSSTE's consideration.

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.

Introduction

The health sector is known for being exceptionally at risk of waste, corruption, fraud and of other integrity issues. The State's Employees' Social Security and Social Services Institute (*Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado*, ISSSTE) is not exempt from these risks, as wrongdoing, collusion and corruption can affect any step of its procurement and distribution process.

Effective prevention by an organisation of corruption and unethical acts is not only influenced by the controls and policies it implements, but also by its culture and prevention efforts. Active commitment and involvement from public servants are imperative to maintain an environment that stimulates integrity and rejects corruption and wrongdoing.

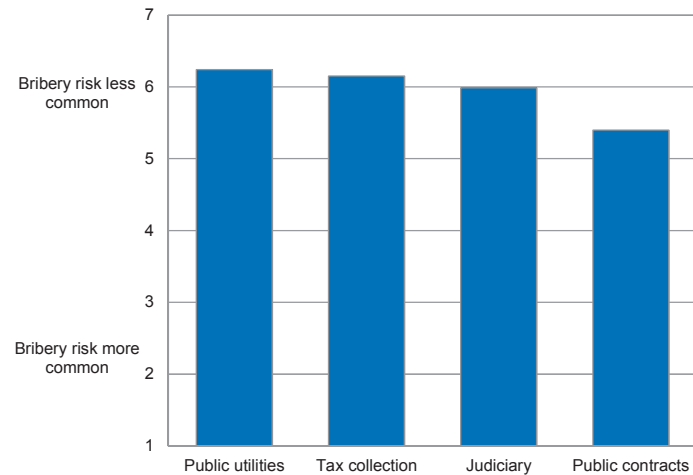
Transparency has been identified as a priority by ISSSTE, putting in place a crucial element for an integrity-prone environment. However, the OECD review found that ISSSTE's mechanisms to enhance integrity essentially rely on a corrective approach based on sanctions. At this time, the organisation lacks a proper culture of prevention and reporting, as well as the instruments, mechanisms and red flags required to effectively and efficiently identify, monitor and address integrity risks and wrongdoing. This chapter describes the general context of ISSSTE's management of integrity and provides recommendations to improve it.

Awareness of integrity and corruption risks in the public health sector

Corruption is perceived to be common in the public procurement sector due to the financial interests at stake, the volume of transactions and the close interactions between the public and private sectors. As illustrated in Figure 10.1, public procurement has actually been identified as the government activity most vulnerable to corruption in OECD member countries according to a survey of international business executives by the World Economic Forum.

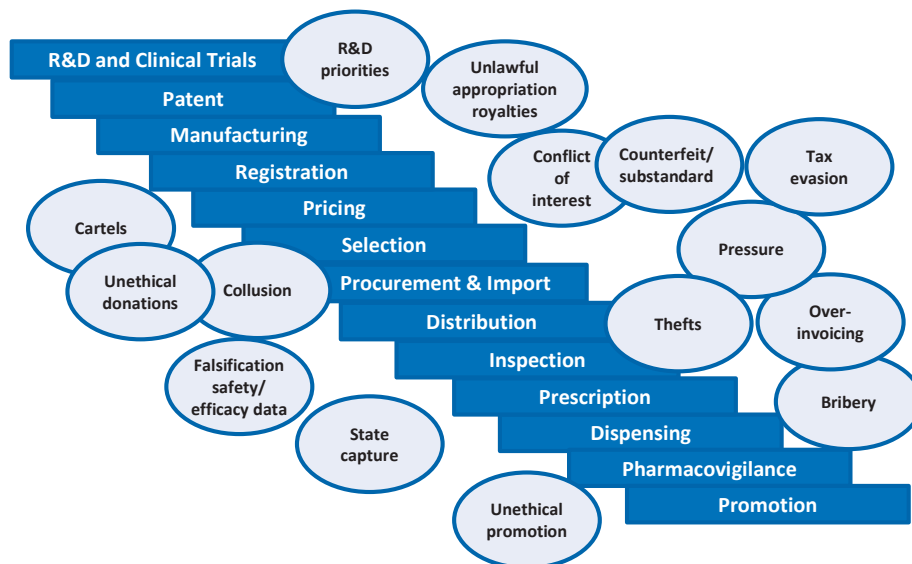
These risks are exacerbated in the public health sector due to the uncompetitive nature of the pharmaceutical industry, which predisposes it to fraudulent activity. Lack of transparency, especially in weak governance systems, particularly exposes countries to corruption risks. Furthermore, unethical practices can occur in all stages of the medicines chain, from regulation to procurement, promotion, distribution and final sales (Figure 10.2).

Figure 10.1. Average perceived level of bribery risk in selected government activities in OECD member countries



Source: OECD (2009), *Government at a Glance 2009*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264075061-en>, accessed 4 October 2013.

Figure 10.2. Unethical practices in the medicines chain



Source: World Health Organization (2010a), “Good governance for medicines programme: an innovative approach to prevent corruption in the pharmaceutical sector. Compilation of country case studies and best practices”, Background Paper 25, World Health Organization, Geneva, www.who.int/healthsystems/topics/financing/healthreport/25GGM.pdf, accessed 22 October 2012. © World Health Organization, 2010. Reproduced with permission.

Known corruption practices in health sector procurement include collusion¹ and bribing public officials. For example, bribing a public official through incentives, monetary inducement, kickbacks or gifts can be used by suppliers to:

- have the medicines they manufacture or import included on the national essential medicines list;
- obtain a competitive position in the stages of bidding, study and referring of bids or contracts;
- facilitate collusion in the preparation of bids by providing some suppliers with special and confidential information regarding prices, for example; and
- receive money in exchange for medicine that is supposed to be distributed free of charge (Jordan Ministry of Health, 2010).

Bribery can also be used by suppliers to avoid being held accountable for improper contractual performance, such as failure to deliver on time.

Corruption in the pharmaceutical sector can have strong negative impacts on public health agencies and their beneficiaries. The World Health Organization (WHO, 2006) categorises them as follows:

- **Health impact:** the government's capacity to provide access to good quality, essential medicines is reduced by the waste of public resources through the purchasing of expensive or non-essential products.
- **Economic impact:** public sector procurement agencies waste the budget by purchasing over-priced products instead of good quality, less-expensive versions of the same product. Funds may be mismanaged as well, impacting on national health budgets and contributing to shortages of medicines.
- **Impact on government image and trust:** inefficiency and lack of transparency reduce the credibility of public institutions and affect the public's perception of and confidence in the government's capacity.

The World Health Organization (2009) reports that 10% to 25% of public procurement spending (including pharmaceuticals) is lost to corrupt practices and fraud, and that abuse in health care has been estimated to cost individual governments as much as USD 23 billion per year in developed countries.

Public health service providers sometimes lack the skills needed to identify and address the risks of unethical actions, particularly in drafting technical specifications, designing and conducting competitive tendering procedures and monitoring and evaluating suppliers' performance under their contracts. As an example, vague technical specifications may increase the possibility of bribes and influence during the tendering process while unnecessarily strict and detailed technical specifications limit competition and may result from an intention to "tailor it" to a particular supplier.

Corruption and wrongdoing can have a profound impact in ISSSTE's capacity to maximise the use of available resources to provide the volume of high quality services required by its beneficiaries. As such, it is essential that it takes concrete and strong actions to identify and prevent unethical conduct that may occur in its procurement activities and to implement appropriate remedial actions, thereby increasing the integrity of its procurement function. The legal framework in place in Mexico to fight corruption is a good starting point for such efforts.

Fight against corruption under the Mexican legal framework

The Mexican legal framework applicable to public procurement is based primarily on the Law on Acquisitions, Leasing and Services of the Public Sector (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público*, LAASSP) and the Law on Public Works and Related Services (*Ley de Obras Públicas y Servicios relacionados con las Mismas*, LOPSRM). While both of them include various requirements and rules to structure and guide public procurement activities, they do not specifically address integrity and corruption risks, other than requiring a declaration of integrity from bidders under public tendering procedures as well as a written statement that they are not subject to any conditions under the law preventing them from being awarded a contract.

The criminalisation of public servants who take part in corrupt practices is covered by other applicable laws such as the Federal Law on Administrative Responsibilities of Public Servants (*Ley Federal de Responsabilidades Administrativas de los Servidores Públicos*, LFRASP) and the Federal Penal Code (*Código Penal Federal*). The LFRASP aims to enhance the legality and integrity of public servants' performance of their administrative duties. This law establishes the administrative faults, the procedure for taking legal action, and the modality and degree of sanctioning to be applied to public servants. It also establishes the obligation for entities of the federal public administration to have in place units where complaints can be filed, and to take permanent preventive actions to ensure legislative compliance.

Specifically, the LFRASP prohibits procurement officials from:

- contracting with any person who performs a public function, or with any company in which such a person participates;
- contracting with any person that has been prohibited from holding a job, position or commission in the public administration;
- intervening in any situation which may create any personal or business-related conflict of interest;
- participating in any act or procedure where integrity might be compromised;
- exercising any form of influence peddling to former public servants, up to one year after they conclude their public function; and
- inhibiting whistleblowing or the filing of a complaint.

Until recently, the Mexican regulatory framework did not offer support to public officials who encountered corrupt acts. For example, it did not require public entities to put in place specific guidelines to assist officials to identify and act in a timely manner when they encounter such acts. Whistleblowers' protection was also limited as there was no secure mechanism in place for reporting fraudulent, corrupt or unethical behaviour. The legal framework, therefore, offered limited assistance to ISSSTE in tackling corrupt acts.

In view of these limitations, important legal reforms were undertaken to enhance integrity in public procurement procedures. The Federal Anti-Corruption Law on Public Procurement (*Ley Federal Anticorrupción en Contrataciones Públicas*, LFACP), adopted in June 2012, directly addresses issues of corruption and fraud in public procurement. It reinforces the position of Mexican entities to combat corruption and fraud through various provisions such as:

- Penalties and liabilities on both Mexican and foreign individuals and entities for infringing the law during their participation in any federal procurement process, 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 entities involved in corruption in international business transactions are equally liable (Article 9).
- Acts such as influence, bribery, collusion, shams, omission, evasion, filing false information, and forgery are considered infringements (Article 8).
- Penalties for violation of the law include fines and legal disqualification (*inhabilitacion*) from the pertinent working sector for periods ranging from three months to eight years for individuals and three months to ten years for entities (Article 27).
- Pleading guilty and co-operating in the investigation reduces the sanctions up to 50%, if the plead takes place within 15 working days following the notification of the administrative disciplinary proceedings (Articles 20 and 31).
- Whistleblowers identities must remain confidential (Article 10).

In addition to the LFACP, amendments have been proposed to the Federal Penal Code, enhancing the protection of whistleblowers and their families. These amendments focus on maintaining the confidentiality of the whistleblower's identity, reassigning them to another position in the public service, and diminishing the sanctions if they confess to collaborative felonies. Similarly, there is an initiative to reform the LFRASP to stimulate whistleblowing by increasing the liability and sanctions for public servants who inhibit whistleblowing and by allowing anonymous reporting. Finally, the *General Administrative Manual on Acquisitions, Leases and Services* recently put in place by the Ministry of Public Administration outlines integrity as a main principle in procurement procedures.

Prevention of corruption and wrongdoing in ISSSTE

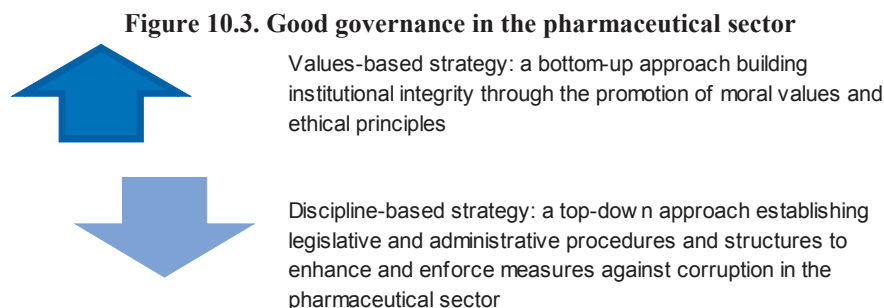
ISSSTE needs to create a culture of integrity awareness and prevention, starting with a strong Code of Conduct and guidelines

Fighting corruption in the health sector requires a long-term strategy which promotes good governance. Creating a culture of corruption prevention requires the involvement and commitment of the management as well as public servants to create an environment that stimulates integrity and rejects improper actions.

As discussed in the previous chapter, ISSSTE has identified transparency as a priority, putting in place a crucial element for an integrity-prone environment and for corruption prevention. However, the OECD review found that ISSSTE currently lacks specific anti-corruption and integrity measures and programmes in general, and in its procurement function specifically. As an example, when asked about the mechanisms, tools and strategy in place in ISSSTE to safeguard integrity in the procurement process, most delegations indicated it is ensured through strict compliance with the procurement laws (including the required declaration of integrity from suppliers), various forms of reporting and information disclosure, and through participation of the Internal Control Office (*Organo Interno de Control*) or social witnesses in some stages of the process and through their audits or reports. Furthermore, ISSSTE's current risk management system does not identify or address any integrity or corruption risks, even though some current

activities can compromise the integrity of the procurement process (for example contract splitting, improper use of exceptions to public tendering and inadequate bid evaluation, as discussed in Chapters 5 and 6). At this time, safeguarding the integrity of the procurement process and preventing corruption is therefore perceived to be external to the function. As such, ISSSTE's current culture of integrity is one of compliance and monitoring; integrity enhancement essentially relies on a corrective approach based on sanctions.

According to the *OECD Principles for Integrity in Public Procurement* (OECD, 2009b), four key elements need to be in place to enhance integrity and foster corruption prevention, namely *i*) transparency; *ii*) good management; *iii*) prevention of misconduct, compliance and monitoring; and *iv*) accountability and control. As the principles indicate, effective prevention of corruption is not only influenced by the controls and policies implemented in an organisation, but also by its culture and prevention efforts. Active involvement and commitment from public servants is imperative to maintain an environment that stimulates integrity and rejects wrongdoing. As such, the current discipline-based strategy in Mexico and ISSSTE needs to be complemented with a values-based strategy (Figure 10.3).



Source: Based on World Health Organization (2010b), *Good Governance for Medicines. Progress Report for 2010*, WHO Press, Geneva, www.who.int/medicines/ggm/en/, accessed 4 October 2013.

Raising awareness and understanding of the risks and impacts of wrongdoing and of the need to pursue appropriate counter measures therefore entails a culture of prevention and is the first stage in developing a full-fledged strategy against corruption. Codes of conduct can have a significant impact in this regard, as they define and implement an organisation's values and ethical standards. Although ISSSTE's current Code of Conduct states the core values of the institution, it is not sufficient to foster the required integrity culture in the procurement function as it only explains in general terms what is expected of public servants and does not have specific provisions regarding public procurement.

Adequate identification and management of conflicts of interest is particularly important in the procurement function in view of its close proximity and regular contact with the private sector. Within the Mexican legal framework, LFRASP regulates conflicts of interest by requiring public servants to abstain from intervening in any situation under which any personal or business-related interest may arise. As highlighted by the OECD (OECD, 2009b), dialogue between the public and private sectors is, however, crucial to remain up-to-date with market developments and achieve the best outcomes at a reasonable price. Although ISSSTE's Code of Conduct briefly mentions conflict of interest, it neither provides specific guidelines for behaviour nor assists public servants in dealing with situations of conflict of interest, bribery or influence peddling. Similarly, there is no formal procedure on the specific conduct that is deemed appropriate when

interacting with suppliers. This issue is not limited to ISSSTE, lack of conflict of interest guidelines for all functions across pharmaceutical systems being a common weakness among countries (WHO, 2010b).

In order to provide further guidance on ethical practices, ISSSTE could therefore benefit from modernising and expanding its Code of Conduct, potentially following the Italian example (Box 10.1). The modifications could specify guidelines and procedures to prevent unethical or corrupt practices in procurement, as well as the possible sanctions (fine, loss of position, imprisonment) that follow a corrupt act.

Box 10.1. Adopting and implementing a code of ethics for public procurement in Italy

Consip is a company entrusted with information technology activities for Italy's Ministry of the Economy and Finance (MEF) and responsible for the e-procurement system. Recognising that public procurement is highly exposed to conflict of interest and corruption, it has introduced a Code of Ethics. This Code of Ethics sets standards for Consip's personnel as well as for anyone who co-operates with the company, including employees, consultants, suppliers, the Ministry of Economy and Finance and other stakeholders. It provides general standards of behaviour which must be respected in activities with Consip.

The Code of Ethics contains several provisions for standards of behaviour in the following areas:

- general rules on ethics and behaviour and in relations with suppliers and stakeholders;
- conflict of interest;
- gratuities;
- interaction with the public administration, civil society, politicians and the media;
- confidentiality of information and documentation.

The Code has put in place internal controls to evaluate compliance with the Code and periodically verifies that corporate procedures, organisation and management of the company are in conformity with existing laws and regulations. To support compliance and application of the Code, the Office of Compliance was established and performs the following functions:

- communication and interpretation of the Code;
- verification of the effective application of the Code, and of possible violations;
- recommendations of appropriate measures to comply with existing laws and regulations;
- information to heads of departments in case of inappropriate behaviour in order to allow for the adoption of adequate measures.

Source: Magrini, P. (2006), "Transparency in public e-procurement: the Italian perspective", *OECD Papers*, Vol. 5/10, OECD Publishing, Paris, http://dx.doi.org/10.1787/oecd_papers-v5-art36-en, accessed 4 October 2013.

ISSSTE could also develop specific guidelines assisting in the identification and management of conflicts of interest and defining clear restrictions for public servants over the entire procurement cycle, particularly in interacting with the marketplace. For example, case scenarios and real-life examples could be included, where employees could easily recognise cases in which they might be involved. Providing specific guidelines for the expected behaviour of public procurement officials helps to ensure that private interests do not improperly influence their performance, duties or responsibilities. Such changes would strengthen integrity by stressing honesty, responsibility, efficacy and respect while simultaneously aiding transparency. The guidelines could be reinforced

through the introduction of a wrongdoing prevention officer providing support and advice to employees on such topics as corruption, conflict of interests, collusion, etc.

It is also essential that anti-corruption measures address the responsibilities of suppliers in corrupt practices throughout the procurement cycle. As discussed later, ISSSTE can take actions to ensure that suppliers involved in corruption or collusion are subject to proper investigations and prosecutions. However, many countries are moving from the sole criminalisation of companies to inducing them to develop their own programmes to prevent corruption. For example, the “Corporate Sentencing Guidelines” in the United States represents a new approach to induce publicly-traded companies to create ethics programmes, codes of conduct, effective training and whistleblower systems. The incentive offered by the guidelines is that if a company is convicted of corruption, the judge must take into account the efforts the company has made to implement an effective programme designed to prevent and detect criminal conduct. This can result in a significant reduction in the civil penalties the company would have to pay, up to 95% in some cases (Chapter 8 in USSC, 2011).

The private sector has been active in many parts of the world in proactively developing anti-corruption programmes and setting standards through self-regulation. For example, the Construction Industry Ethics and Compliance Initiative (CIECI) is a non-profit private association bringing together more than 50 companies in the United States’ construction industry to establish a process for the industry to promote integrity and ethical conduct. The initiative requires each signatory company to adhere to the following six core ethical principles (CIECI, n.d.):

- each member must have and adhere to a written business code of conduct establishing high ethical values and compliance with the law applicable to the United States’ construction industry;
- each member must train its personnel as to their personal responsibilities under its code of conduct;
- each member commits itself to work together toward maintaining open competition in the industry, free of conflicts of interest and undue influences;
- each member must have responsibility to each other to share best ethical and compliance practices in implementing these principles;
- each member must participate in the Annual Best Practices Forum organised by the association;
- each member, through participation in this initiative, must be accountable to the public.

While ISSSTE does not have the leading role in Mexico in developing integrity and accountability standards for businesses, it could engage with certain suppliers to explore ways to encourage them to develop their own standards and programmes to enhance integrity in their relationship with ISSSTE.

A series of actions and training are required for the integrity culture to become intrinsic to the procurement function

Codes of conduct and guidelines are instrumental documents for promoting integrity values in ISSSTE. However, they are not, in themselves, sufficient to implement an on-

going process of involvement and commitment for making integrity an integral part of the culture of its procurement function. ISSSTE could complement them with a formal strategy promoting key values and composed of a series of specific anti-corruption and integrity actions. Training is a cornerstone of this strategy, as in other OECD countries (Box 10.2). Self-assessment tools could also be considered, such as the one implemented by the Netherlands to address integrity risks (Box 10.3).

Box 10.2. Integrity training in Germany

The Federal Procurement Agency is a government agency which manages purchasing for 26 different federal authorities, foundations and research institutions that fall under the responsibility of the Federal Ministry of the Interior. It is the second largest federal procurement agency after the Federal Office for Defence Technology and Procurement. The Federal Procurement Agency has taken several measures to promote integrity among its personnel, including support and advice of a corruption prevention officer, the organisation of workshops and training dealing with corruption, and the rotation of its employees.

Since 2001, it is mandatory for new staff members to participate in a corruption prevention workshop. With the help of a prosecutor from the district prosecution authority, they learn about the risks of getting involved in bribery and the briber's possible strategies. Another part of the training deals with how to behave when these situations occur; for example, by encouraging them to report it ("blow the whistle"). Workshops highlight the central role of employees whose ethical behaviour is an essential part of corruption prevention. In 2005, the workshops were enlarged to include not only induction training but also on-going training for the entire personnel. The involvement of the agency's "Contact Person for the Prevention of Corruption" and the Head of the Department for Central Services in the workshops demonstrated to participants that corruption prevention is one of the priorities for the agency.

Another key corruption prevention measure is the rotation of staff after a period of five to eight years in order to avoid prolonged contact with suppliers, as well as improving motivation and making the job more attractive. However, the rotation of members of staff is still meeting difficulties. Due to a high level of specialisation, many officials cannot change organisational unit, their knowledge being indispensable for the work of the unit.

Source: OECD (2007), *Integrity in Public Procurement: Good Practice from A to Z*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264027510-en>, accessed 4 October 2013.

10.3. The Netherlands' public sector integrity assessment tool: The Self-Assessment INTEgrity (SAINT)

The Netherlands Court of Audit in co-operation with the Ministry of the Interior and the Bureau of Integrity of the City of Amsterdam have developed the Self-Assessment INTEgrity (SAINT) tool. SAINT is a self-diagnosis tool that is presented and discussed in a one-day workshop. By using the SAINT tool, public sector organisations can assess their vulnerability to integrity violations and resilience in response to those violations. SAINT also yields recommendations on how to improve integrity management. Key features of the SAINT tool include:

- **Self-assessment:** SAINT is a self-assessment tool. The organisation itself must take the initiative to test its integrity. Thus, the assessment draws on the knowledge and opinions of the staff. The organisation reveals its own weaknesses and the staff make recommendations on how to strengthen resilience.
- **Targeted at prevention:** the self-assessment tool is targeted at prevention. It is not designed to detect integrity violations or to punish (repress) unacceptable conduct but to identify the main integrity weaknesses and risks and to strengthen the organisation's resilience in the face of those weaknesses and risks.

10.3. The Netherlands' public sector integrity assessment tool: The Self-Assessment INTeegrity (SAINT) (*Cont*)

- **Raising general integrity awareness:** the SAINT workshop significantly increases awareness of integrity. The participants' collective discussions about the importance of integrity are of great value.
- **Learning to think in terms of vulnerability and risk:** the SAINT workshop teaches the organisation how to think in terms of vulnerability and risk. During the workshop, the participants identify the main vulnerabilities and risks and then make recommendations on how to minimise them.
- **Concrete management report/action plan:** the end product of the SAINT workshop is a concrete management report/action plan. Under the expert leadership of a trained moderator, the participants formulate recommendations for their own organisation. The report explains to management where urgent measures must be taken to strengthen the organisation's resilience in response to integrity violations.

Source: Benner, H. and I. de Haan (2008), "SAINT: Tool to Assess the Integrity of Public Sector Organisations", *International Journal of Government Auditing*, April, www.intosaijournal.org/pdf/april2008.pdf, accessed 4 October 2013.

When considering other actions, ISSSTE may get inspiration from the recent efforts put in place in the Mexican Federal Electricity Commission (*Comisión Federal de Electricidad*, CFE) to enhance a culture of integrity (Box 10.4), including "integrity recognition" for those individuals and working groups distinguished for their excellent conduct, for promoting CFE's values and for actions providing greater transparency to processes. CFE has also developed a programme on a "culture of legality" to promote integrity and corruption prevention values. The programme has 60 instructors certified by the National Strategy Information Centre and sets the objective for CFE's workers to recognise their rights and obligations as citizens and as public servants to reject and report corruption (OECD, 2012).

Box 10.4. Activities undertaken by the Mexican Federal Electricity Commission (CFE) in 2009-10 to enhance a culture of integrity

- Review of its code of conduct.
- Distribution of nearly 100 000 copies of the code of conduct to CFE employees.
- Distribution of more than 84 000 copies of the Values Calendar to CFE employees.
- Monthly publication of the magazine Transparency.
- Award of the eighth edition of "Integrity Recognition" to employees and outstanding CFE divisions.
- Forum on values, equality and culture of legality.
- Workshops on values and applied ethics for almost 500 instructors on transparency from 2007 to 2010.
- Interactive training of more than 3 000 employees on values and the code of conduct.
- Surveys on the perception of transparency and anti-corruption efforts.
- Children's drawing competition on ethical values.
- Sensitisation campaign to promote institutional values, by dedicating a different value to each month and distributing graphic material physically and through electronic media.

Source: OECD (Forthcoming), "Public Procurement Review of the Electric Utility of Mexico, Towards Procurement Excellence in the Comisión Federal de Electricidad", internal document, Public Governance and Territorial Development directorate, Paris.

Transparency of the price of medicine can be an effective tool to reduce corruption and identify potential wrongdoing

Transparency of the price of medicine is another key factor for reducing corruption in the public health sector. As previously mentioned, the procurement of pharmaceutical products is prone to corrupt acts, including bribery and undue price increases (including through collusion among suppliers) for both generic and patented drugs. Access to information on prices sets a standard against which to benchmark future procurement and create opportunities for oversight and scrutiny in the procurement process.

A recent WHO bulletin (Gómez-Dantés et al., 2012) indicates that while only 4% of medicines are patented in Mexico, they represent 56% of the total public expenditure of pharmaceuticals. It further reports that a recent analysis of the public procurement prices for patented products revealed price variations as high as 3 000% among public institutions in 2006, which suggests large inefficiencies and flaws in the public procurement process. Contracts for patented medicines cannot, by definition, be subject to competition and are therefore awarded directly to the supplier or manufacturer. They therefore open the door to influence and corruption, with the possibility that higher prices are accepted by the procuring organisation in return for bribes and kickbacks to one or many public servants involved in the negotiation and award process.

To counter this, the Mexican government formed the Co-ordinating Commission for Negotiating the Price of Medicines and other Health Inputs (*Comisión Coordinadora para la Negociación de Precios de Medicamentos y otros Insumos para la Salud*, CCPNM) in 2008 which creates a legal right for public health institutions to pool together to negotiate a unique price applicable for one year for all of the participating institutions. Overall this initiative has gradually reduced the price of patent medicines throughout the public health sector, lowering the risks of corruption and producing savings estimated at more than 350 USD million by the World Health Organization (Gómez-Dantés et al., 2012). Nevertheless, CCPNM prices are not available outside of the scope of the participating agencies, limiting transparency.

In a similar manner, ISSSTE has mitigated integrity risks in the procurement of generic medicines by consolidating requirements at the central level, thereby reducing the issuance of a numerous, small-value contracts for the same products at different prices, and increasing the level of transparency and competition in the acquisition process. More recently, it has gone one step further, initiating joint procurement initiatives with other entities of the Mexican federal health sector (see Box 5.1 in Chapter 5). In addition to enhancing competition and obtaining better prices, this approach increases the number of stakeholders involved in the process as well as its visibility and scrutiny, thereby reducing the opportunity for wrongdoing.

Experience in OECD countries has shown that an additional way for ISSSTE to prevent corruption is by increasing transparency of the price of medicines. Having access to the prices paid by drug procurement agencies and distributors provides a standard against which to benchmark other procurement. If the agency procures medicines at prices that are very different than those publicised, oversight and scrutiny can take place. Such investigations and the implementation of corresponding sanctions enhance accountability within the agency, creating a deterrent for bribes and kickbacks that inflate the prices, thus improving the agency's credibility. For example, the United States' Supply Chain Management System (SCMS) established an online catalogue of prices for items procured under long-term supply contracts negotiated for antiretrovirals and other

commonly needed products, directly promoting price transparency to deter corruption (Vian et al., 2010).

The Argentinean experience is also relevant on the effect of publicising hospital procurement prices to constrain corruption. When data collection was first introduced, there was a drop in prices and in their dispersion. However, further analysis demonstrated that prices fell in anticipation of the price disclosure and not as a consequence of procurement officers learning from the information. The Argentinean case also sheds light on the fact that the impact of information itself is insufficient to deter corruption if there are no investigations, reprimands or additional scrutiny when a hospital is overpaying for certain supplies. If there are no incentives for efficiency or integrity, procurement officers become used to reporting prices with the confidence that there will not be any further consequences for poor or negligent performance (Savedoff, 2010).

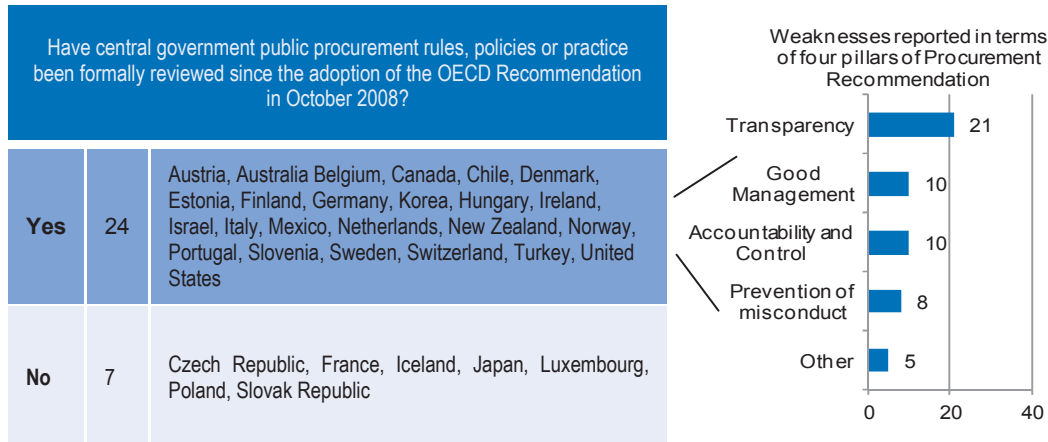
ISSSTE could explore benchmarking the prices of generic and patented medicines with other health agencies in Mexico and abroad, allowing, for example, the continued improvement of CCPNM's negotiations. It could also follow on the stated intent of its Director General and adopt a strategy to enhance the transparency of the price of the medicines obtained in its procurement process. This price disclosure should be done, as a minimum, within the organisation and with other entities of the Mexican health care sector. Public disclosure could also be considered to the extent that it does not facilitate collusion between suppliers.

Monitoring and corrective actions for integrity risks

Like other Mexican federal entities, ISSSTE lacks effective mechanisms to identify and monitor irregularities and potential corruption in its procurement function

While implementing a strong culture of integrity in ISSSTE is essential, it will not be sufficient to adequately undermine corruption unless mechanisms are in place to identify improper actions and strong actions are taken to address them. However, significant efforts are required in this regard. As indicated in Figure 10.4, one-third of the OECD countries having formally reviewed their central government public procurement rules, policies or practice since 2008 have reported the “prevention of misconduct” as an identified weakness. Mexico is one of those countries, having specifically identified “a lack of effective mechanisms to monitor procurement and identify irregularities and potential corruption”.

Complementary to the creation of a culture of integrity, an effective strategy for preventing corruption in the procurement process requires formal mechanisms for monitoring associated risks. As stated before, none of the risks identified under ISSSTE's current risk management system address corruption risks. As an initial step, and preferably as part of strengthening the risks management system suggested in Chapter 3, it is therefore essential for ISSSTE to undertake a mapping exercise to identify risks of corrupt or unethical activity in every stage of the procurement process.

Figure 10.4. Weaknesses identified in central government reviews of public procurement

Note: Data unavailable for Greece, Spain and the United Kingdom.

Source: OECD (2012), “Progress Made in Implementing the OECD Recommendation on Enhancing Integrity in Public Procurement”, OECD, Paris, www.oecd.org/gov/ethics/combined%20files.pdf, accessed 4 October 2013.

Following that exercise, ISSSTE could develop appropriate red flags and alert mechanisms to assist in the detection of wrongdoing in a timely manner, avoiding significant delays between the time when the wrongdoing occurs and when it is noticed, if ever, and facilitating investigations and corrective actions. In doing so, ISSSTE may benefit from various red flags for procurement corruption already identified internationally, such as those of the Chartered Institute of Public Finance & Accountancy (Box 10.5).

Box 10.5. Red flags for procurement corruption

Recognising the risk of procurement corruption through “red flags” helps to prevent and detect it. Examples of “red flags” are:

- physical losses
- manipulation of data
- incomplete management/audit trail
- budget overspends
- unusual invoices (e.g. format, numbers, address, phone, VAT number)
- duplicate/photocopy invoice
- round sum amounts invoiced
- sequential invoice numbers over an extended period of time
- lack of supporting records
- unusual increases/decreases
- unusual relationship with suppliers
- photocopied documents
- IT-controls of audit logs disabled
- IT-login outside working hours
- vague description of goods/services to be supplied
- high number of failed IT logins
- favoured customer treatment
- interest/ownership in external organisation
- non-declaration of interest/gifts/ hospitality
- no process identifying risks (e.g. risk register)

Source: Chartered Institute of Public Finance & Accountancy (CIPFA) Better Governance Forum (2011), “Procurement fraud briefing”, Chartered Institute of Public Finance & Accountancy, London.

As part of a strong culture of integrity, the responsibility for all stakeholders to identify and report improper practices should be reinforced. In line with the experience of Brazil (Box 10.6), ISSSTE could put in place formal tools and mechanisms at the organisational level to ensure the regular assessment of available data and information as to identify potential integrity risks and monitor identified red flags. The implementation of an e-procurement system covering the entire procurement process and integrated with the other IT systems, as suggested in Chapter 8, could strongly support this process on two levels. First, it would provide easy and real-time access to clear and consolidated information and data, facilitating the necessary monitoring and assessment. Second, it could include functionalities immediately reporting occurrences of specific red flag events to the appropriate stakeholders.

Box 10.6. Use of data mining to detect misconduct and corruption in Brazil

The Brazilian Office of the Comptroller General launched the Public Spending Observatory (Observatório da Despesa Pública) in 2008 as the basis for continuous detection and sanctioning of misconduct and corruption. Through the Public Spending Observatory, procurement expenditure data are crossed with other government databases as a means of identifying atypical situations that, while not a priori evidence of irregularities, warrant further examination.

Based on the experience over the past several years, a number of daily actions are taken to cross procurement and other government data. This exercise generates “orange” or “red” flags that can be followed up and investigated by officials within the Office of the Comptroller General of the Union. In many cases, follow-up activities are conducted together with special advisors on internal control and internal audit units within public organisations.

Examples of these tracks related to procurement and administrative contracts include possible conflict of interest, inappropriate use of exemptions and waivers and substantial contract amendments. A number of tracks also relate to suspicious patterns of bid-rotation and market division among competitors by sector, geographic area or time, which might indicate that bidders are acting in a collusive scheme. Finally, tracks also exist regarding the use of Federal Government Payment Cards and administrative agreements.

Source: OECD (2012), “Progress Made in Implementing the OECD Recommendation on Enhancing Integrity in Public Procurement”, OECD, Paris, www.oecd.org/gov/ethics/combined%20files.pdf, accessed 4 October 2013.

An important avenue to identify potential breaches of integrity in the procurement function rests with the various public servants involved or aware of the associated activities. In that regard, creating an environment that supports and encourages reporting fraudulent acts is essential, as discussed below. In order to assist public servants in identifying, monitoring and reporting corrupt activities, ISSSTE could develop specific red flag guidelines and training highlighting the integrity risks identified for each stage of the procurement cycle and providing concrete examples of red flags or circumstances that may lead to suspect improper actions.

Finally, it is essential that strong mechanisms are in place to promptly investigate potential occurrences of wrongdoing and, if proven to be true, to immediately enforce appropriate sanctions against the individual involved (whether they are public servants or not) and take actions to mitigate the reoccurrence of that risk. Failing to consistently do so will reduce the confidence of public servants in the integrity system and may create a strong disincentive to report. By showing that investigation of identified potential corrupt

or fraudulent acts is not a priority and may therefore remain unpunished, may, on the contrary, create a sense of impunity and increase the temptation to commit such acts.

An environment that encourages reporting and the protection of whistleblowers strongly supports monitoring unethical practices

Facilitating the reporting of wrongdoing can help monitor compliance and detect misconduct. Nevertheless, the risks of reporting (either real or perceived) can be high in organisations where a reporting environment is not encouraged. Such an environment could be promoted by implementing mechanisms that encourage denunciation, ensure the confidentiality of the identity of whistleblowers and protect them against retaliation.

As a first step, clear reporting mechanisms must be in place and well known through the organisation, along with clear rules and procedures and a description of the protection provided for reporting officials. Such mechanisms may consist of hotlines or electronic reporting systems that ensure confidentiality. ISSSTE's Internal Control Office has implemented reporting systems via mailboxes for suggestions and reporting along with an electronic reporting system that ensures confidentiality (www.issste.gob.mx/contacto/quejas.html). In order to maximise the opportunities for reporting, ISSSTE could assess the pertinence of complementing the existing systems with alternative channels for officers who feel uncomfortable, if not threatened, to report through regular channels.

Even with such mechanisms in place, many public servants aware of unethical or fraudulent acts will refrain from reporting them if they feel this may subsequently negatively impact their reputation and career, for example through victimisation or retaliation. As previously mentioned, the new Federal Anti-Corruption Law on Public Procurement provides limited legal protection for whistleblowers, being limited to their identity remaining confidential. Similarly, amendments have been proposed to the Federal Penal Code, for example for reassigning whistleblowers to another position in the public service and diminishing the sanctions in case they confess to collaborative felonies. However, these amendments have not yet been approved and none of these legal reforms explicitly prohibit retaliation.

Besides the protection intended by the proposed amendments to the Federal Penal Code, ISSSTE could implement mechanisms and practices so that its employees feel safe to disclose wrongdoings without fear of victimisation or retaliation from those involved in the corrupt practices. For example, senior management (preferably as high as the Director General) could clearly and strongly indicate that no form of retaliation and victimisation of whistleblowers will be tolerated. Also, a mechanism could be put in place to provide the opportunity for whistleblowers to be reassigned to another position in the organisation. When designing these whistleblower protection mechanisms and practices, ISSSTE could consider the guiding principles recently adopted by the G20 Anti-Corruption Working Group (Box 10.7).

Protecting public officials from irresponsible and unethical whistleblowing – such as false reporting or reporting as a result of spite or competitiveness between colleagues – is equally essential, as the continuous misuse of reporting could damage the reputation and career of public servants as well as lower the perceived credibility of the whistleblowing process. As such, ISSSTE could implement training and education on the notion of integrity and the purpose of reporting to encourage the correct use of these mechanisms and prevent misuse.

Box 10.7. Guiding principles for efficiently protecting whistleblowers

The G20 Anti-corruption Working Group has identified the following guiding principles as essential elements for protecting whistleblowers:

- A clear policy and an effective institutional framework are in place to protect from discriminatory or disciplinary action employees who disclose in good faith and on reasonable grounds certain suspected acts of wrongdoing or corruption to the competent authorities.
- The policy provides a clear definition of the scope of protected disclosures and of the persons afforded protection.
- The policy ensures that the protection afforded to whistleblowers is robust and comprehensive.
- The policy clearly defines the procedures and prescribed channels for facilitating the reporting of suspected acts of corruption, and encourages the use of protective and easily accessible whistleblowing channels.
- The policy guarantees that effective protection mechanisms are in place, including by entrusting a specific body that is accountable and empowered with the responsibility of receiving and investigating complaints of retaliation and/or improper investigation, and by providing for a full range of remedies.
- Implementation of whistleblower protection is supported by awareness-raising, communication, training and periodic evaluation of the effectiveness of the framework of protection.

Source: OECD (2011), “Whistleblower protection frameworks: compendium of best practices and guiding principles for legislation”, OECD, Paris, www.oecd.org/dataoecd/42/43/48972967.pdf, accessed 4 October 2013.

ISSSTE should pursue its efforts to reduce the misappropriation of medical products in its entire distribution chain

Once medicines and medical products have been procured, they must be efficiently delivered through the supply chain to the ultimate consumers. Cost-effective strategies that focus on the physical protection and security and risk analysis for dispatch and transport should be employed to safeguard the drug supply and avoid diversion. Emphasis on information management should be increased to detect the diversion of supplies from public to private channels (Vian, et al., 2010). Due to under-financed and poorly managed systems, insufficient record-keeping and ineffective monitoring and accounting mechanisms, large quantities of drugs and medical supplies are stolen from central warehouses and individual facilities around the world and diverted for resale for personal gain in private practices or on the black market.

As many public health care providers, ISSSTE has been confronted with such issues of misappropriation in the past. In order to reduce these risks, it has implemented or initiated a series of actions to improve its acquisition, distribution and stock management processes, such as:

- Centralisation of the purchase of medicines as well as management of its central warehouse and distribution through a single service provider, *Servicio Integral de Logística y Distribución Sapi de C.V* (SILODISA).

- Launch of an initiative to improve its stock management system in the medical units (Integral Medicines Supply System) to increase the availability of accurate and up-to-date stock data and to better track the entry and exit of medicines. Further details on this initiative are available in Chapter 6.
- Implementation of the Supply Control Board (*Tablero de Control*) allowing key stakeholders to follow in real time the stock levels of medicines and medical products in each medical unit (see Chapter 4 for further details).
- Strengthening the electronic medical system tracking services provided to each beneficiary (Comprehensive Healthcare Registry System), including prescriptions provided and medicine consumption (see Chapter 8 for further details).
- Creation of bi-directional interfaces between the Integral Medicines Supply System and: *i*) the Comprehensive Healthcare Registry System; and *ii*) SILODISA's ERP system to allow the data to be cross-referenced and discrepancies to be identified.

ISSSTE could consider complementing these initiatives with additional measures associated with monitoring the delivery, receipt, storage and distribution of medicines and medical supplies. As an example, experience shows that batch monitoring can be an effective tool: each product delivered from the manufacturer to the warehouse is assigned a unique code that identifies the channel of distribution (either public or private). Once the medicines have been procured, applying a similar process for ISSSTE's internal national and regional distribution chain could help reduce theft and irregularities of public supplies.

In addition, ISSSTE could also consider making the messages printed on the drug packaging stronger, for example “health sector product, not for sale. If you have paid for this item, it was stolen.” This type of public-private collaboration to deter drug diversion could improve access to ISSSTE's health services by reducing theft of public supplies, while manufacturers could better assure their regular non-discount, market prices (Vian, et al., 2010).

Proposals for action

In order to create a strong culture of integrity in the procurement process and reduce occurrences of wrongdoing and corruption, ISSSTE could develop and implement a comprehensive strategy considering the following actions:

1. Creating a culture of integrity awareness and prevention including active involvement and commitment of public servants and ISSSTE's suppliers to high integrity standards throughout the procurement cycle. Associated actions may include:
 - Modernising and expanding its Code of Conduct.
 - Developing specific guidelines to assist in the identification and management of conflicts of interest, and defining clear restrictions for public servants at different stages before, during and after the procurement cycle, particularly as it relates to interaction with the marketplace.
 - Providing formal integrity training and workshops to all individuals involved in aspects of the supply function.

- Engaging with certain suppliers to explore ways to encourage them to develop their own standards and programmes to enhance integrity in their relationship with ISSSTE.
 - Implementing other awareness initiatives continuously promoting ethical practices and values, such as the introduction of “integrity recognition” for those individuals and working groups distinguished for their excellent conduct and for promoting integrity.
 - Creating a wrongdoing prevention officer that provides support and guidance to employees on such topics as corruption, conflict of interests and collusion.
2. Benchmarking prices of generic and patented medicines with other health agencies in Mexico and abroad, and disseminating the results internally, in order to facilitate the identification and investigation of suspiciously high prices and to create a disincentive to corruption and collusion. Public disclosure could be considered to the extent that it does not facilitate collusion between suppliers.
 3. Implementing effective mechanisms to identify, monitor and address integrity risks in a timely and consistent manner, for example by:
 - Undertaking a mapping exercise to identify risks of corrupt or unethical activity in every stage of the procurement process, preferably as part of ISSSTE’s risk management system.
 - Developing red flags and alert mechanisms to assist in the detection of wrongdoing and supported by regular assessment of pertinent information and data. This would be facilitated by the implementation, as recommended in Chapter 8, an e-procurement system covering the entire procurement cycle and integrated with ISSSTE’s other IT systems, for example through functionalities that would automatically report the occurrence of red flag events.
 - Providing training and guidance on the identified risks and red flag mechanisms to public servants involved or aware of activities of the procurement process, providing concrete examples of circumstances that may lead one to suspect improper actions.
 - Ensuring that strong mechanisms are in place to promptly investigate potential occurrences of wrongdoing and, if proven, to immediately enforce appropriate sanctions against the individual involved (whether they are a public servant or not) and take actions to mitigate the reoccurrence of that risk.
 4. Creating an environment that stimulates reporting potential wrongdoing and where public servants feel safe to do so without fear of victimisation or retaliation by:
 - Assessing the pertinence of complementing the existing reporting systems of the Internal Control Office (*Organo Interno de Control*) with other vehicles for public servants who feel uncomfortable, if not threatened, to report through regular channels.
 - While waiting for the proposed amendments to the Federal Penal Code to be approved, clearly and strongly indicating (at the senior management level, and preferably the Director General) that no form of retaliation and victimisation

of whistleblowers will be tolerated. In addition, putting mechanisms in place to provide the opportunity for whistleblowers to be reassigned to another position in the organisation.

- Providing education on the purpose of reporting in order to prevent the misuse of the mechanisms put in place, such as false reporting or reporting as a result of spite or competitiveness between colleagues.
5. Complementing the current efforts to reduce the misappropriation of medical products in its entire distribution chain with other initiatives, such as:
- Implementing batch monitoring under which each product is assigned a unique code that allows it to be tracked through the entire distribution channel (all the way down to the beneficiaries).
 - Making the messages printed on the drug packaging stronger, for example by using “health sector product, not for sale. If you have paid for this item, it was stolen.”

Notes

1. Suppliers collusion, also known as bid-rigging, is an important integrity risk in the procurement cycle. However, this report does not cover it in detail as it is subject to a distinct review in collaboration with ISSSTE

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From:
**Public Procurement Review of the State's
Employees' Social Security and Social Services
Institute in Mexico**

Access the complete publication at:
<https://doi.org/10.1787/9789264197305-en>

Please cite this chapter as:

OECD (2013), "Ensuring integrity throughout ISSSTE's procurement cycle", in *Public Procurement Review of the State's Employees' Social Security and Social Services Institute in Mexico*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/9789264197305-14-en>

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