



***G20 ANTI-CORRUPTION WORKING GROUP
PROGRESS REPORT 2013***

September, 2013



G20 Anti-Corruption Working Group Progress Report 2013

ANTI-CORRUPTION WORKING GROUP PROGRESS

Introduction

1. The renewal of the G20 Anti-Corruption Working Group at the Los Cabos Summit in 2012 reflects the ongoing commitment of G20 leaders to rid their economies and societies of the corrosive effects of corruption. Corruption remains a serious challenge, impeding economic growth and development, threatening the integrity of markets, undermining fair competition, distorting resource allocation and undermining public trust and the rule of law.
2. The Working Group is monitoring progress in fulfilling the commitments G20 leaders have made to put in place and strengthen the treaty and legislative framework necessary to fight corruption both at home and abroad. In addition, the Working Group is sharing experiences and identifying best practices to effectively enforce anti-corruption laws and measures, and to instill values of transparency, accountability and integrity into the way that governments and the private sector function. In this respect, the Group's dialogue with business and civil society is critical to making real progress against corruption. The Group remains focused on the commitment made by leaders in the Los Cabos Declaration to close implementation and enforcement gaps if the G20 is to truly lead by example in the global fight against corruption.
3. The Working Group is now implementing its second two-year action plan. **Action Plan 2013-14** is ambitious, comprising over 35 work elements, which address relevant international conventions, as well as legislation and other measures: to combat foreign bribery and solicitation; to prevent money laundering; to deny entry and safe haven to corrupt officials; to recover assets derived from corruption; to strengthen international cooperation, including facilitating mutual legal assistance in the investigation and prosecution of corruption offenses; to strengthen whistle blower protections; to promote the independence of anti-corruption authorities; and to prevent corruption in the public sector, international organizations and business.
4. The Working Group has also addressed proposals from the Russian G20 Presidency regarding corruption in sporting, cultural and major international events, as well as in the privatization of state-owned assets. It has also reviewed a study by the OECD on the impact of corruption on economic growth, to support the leaders' discussions on this topic.
5. This report provides highlights of progress being made by the Group in 2013 to implement Action Plan 2013-14. National progress is summarized in the attached chart and annex.
6. As an important innovation in 2013, we have published this report, along with its chart and annex on a special page for the Working Group on G20.org (http://g20.org/docs/g20_russia/materials.html) along with a full set of the agreed Working Group products which have enduring value. This will help to disseminate our work and support implementation of best practices, as well as enable our citizens to hold their governments to account. In 2014, we will also publish the national responses to our annual questionnaire.



7. Co-chaired by Russia and Canada, the Group launched work on implementing the Action Plan 2013-2014 at its meetings on 25-26 February 2013 in Moscow and 6-7 June 2013 in Ottawa. A third meeting will be held in the fall. The Group's work was complemented by the Third Annual High Level Anti-Corruption Conference for G20 Governments and Business in Paris April 25-26 organized jointly by the G20 Russian Presidency and the Organisation for Economic Cooperation and Development (OECD), with the support of the United Nations Office on Drugs and Crime (UNODC). The Group is grateful for the invaluable technical advice and support provided by the OECD, World Bank, UN Office for Drugs and Crime, the International Monetary Fund and the Financial Action Task Force, which has underpinned the progress noted in this report. The Group acknowledges also the important initiatives which the international organizations are undertaking themselves to address corruption.

Highlights of Progress in 2013

8. Since 2009, G20 leaders have committed to strengthen treaty and legislative frameworks necessary to fight corruption. There are two important anti-corruption treaties – the **United Nations Convention against Corruption (UNCAC) and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions** (OECD Anti-Bribery Convention). Leaders have called for all G20 members to ratify the UNCAC and for non-parties of the OECD Convention to engage in the OECD Working Group on Bribery with a view to exploring adherence to the Convention. We are pleased that in 2013 Saudi Arabia has ratified the UNCAC: now, only two G20 members have not yet ratified the UNCAC. Recognizing the importance of transparency and accountability in the UNCAC review process, to date 12 of 13 G20 members which have undergone reviews have allowed or have agreed to allow on a voluntary basis country visits for their reviews, while 11 of 13 are engaging with civil society on their reviews. A number are also publishing those reviews, and are responding to deficiencies that have been identified through the review process. Sixteen G20 states are party to the OECD Anti-Bribery Convention, and most of those that are not are however engaging on a regular basis with the OECD Working Group.

9. In order to improve our effectiveness in **combatting bribery and solicitation**, in 2013, we adopted *G20 Guiding Principles on Enforcement of the Foreign Bribery Offence*, as well as *G20 Guiding Principles to Combat Solicitation*. These Principles identify measures that have proven useful at all stages of an effective enforcement process, including detection, investigation, prosecution and sanctioning of the offence, and also provide a reference for countries wishing to step up their actions against solicitation, including in partnership with the private sector. We will promote these principles in our national governments, and with our business communities. These principles are part of a body of principles which the ACWG has adopted.

10. To remove incentives for corruption, it is critical to **deny corrupt individuals and entities the benefits of their corruption**. To do this, G20 governments have supported measures to stop money laundering, to identify those who are the true owners and controllers of legal entities and arrangements (beneficial ownership) and to recover illicitly obtained assets hidden abroad. In 2013, the Working Group has continued its close collaboration with the Financial Action Task Force and welcomed the FATF's ongoing work to ensure implementation of its revised standards to combat **money laundering and terrorist financing, including the standards on beneficial ownership**. The Group will hold a joint meeting with the FATF in the fall to further this information sharing and collaboration.

11. Since its creation in 2010, the Working Group has developed measures to facilitate the **recovery of illicitly obtained assets** hidden abroad. With the support of the World Bank / UNODC StAR Initiative, in 2013 the Group has undertaken a review of each member's approach relative to the asset recovery principles we adopted in Los Cabos. These assessments will be available online. These reviews complement the asset tracing profiles released on line at the Los Cabos Summit (<http://g20.org/load/781360546>), and provide information on measures G20 members have in place to support asset tracking and recovery. In 2013, the Group has continued work to develop national guides which identify contact points, and set out procedures and requirements in order to facilitate requests to G20 governments to recover assets, building on work led by the G8 in the context of the Arab Forum on Asset Recovery.

12. Corruption knows no borders, and corrupt individuals and entities often exploit borders to hide from prosecution. Consequently, G20 governments are adopting measures to help each other bring such individuals to justice. In 2013, to build on the principles endorsed in Los Cabos, we established a network of contact points in each G20 government to enable our authorities to share information, and to identify and deny entry to our countries of corrupt officials. We have also reviewed the status of the United Nations Office on Drugs and Crime (UNODC) data base of legal instruments for Mutual Legal Assistance (MLA) and will update national information as needed to ensure that this data base is current and useful. We are also adopted G20 High-Level Principles on Mutual Legal Assistance, developed with the support of the OECD and UNODC.

13. It is essential that **anti-corruption authorities** -- be they national commissions, police forces, judiciaries or other government institutions with anti-corruption related responsibilities -- operate independently, with adequate resources and free from external influence. We therefore welcomed the report provided by Indonesia at our February meeting in Moscow on the APEC Workshop it hosted on *Challenge and Strategy of Strengthening Anti-Corruption Authorities to Combat Corruption in a Modern World* that was held in Jakarta in January 2013 and will consider further follow-up.

14. We have continued our work to increase the fairness and transparency of the processes through which our governments **procure goods and services**, and also those processes by which they **sell or distribute assets, licenses or rights**. In 2013, with the support of the OECD, we began the process to develop best practises for procurement, including electronic procurement, and together with the World Bank and OECD, reviewed our current systems for the disclosure of the financial and other assets of public officials, as well as potential conflicts of interest, which act as an important disincentive to corruption. We also gathered information on the immunities from prosecution that may be granted to certain public officials in some of our countries to assess the impact this may have on corruption. And, we examined the risks of corruption in the privatization of state-owned assets, reviewing a scoping paper by the World Bank on the challenges and drawing on a paper by the OECD on *Privatization in the 21st Century: Summary of Recent Experiences*.

15. The Working Group also discussed how it might address other sectors that are particularly vulnerable to corruption, for example the organization of sporting, cultural and other major international events. Indeed, there were a series of round tables on combating corruption in sports at the Third Annual High Level Anti-Corruption Conference for G20 Governments and Business in Paris in April, and the Group discussed a report by the UNODC on mitigating the risk of corruption in the organization of major public events. To take this sectoral



work forward, the Group considered a methodology for assessing corruption risks prepared by the World Bank.

16. We also continued to discuss how to improve transparency in sectors vulnerable to corruption, notably the extraction of natural resources and construction sectors, and were briefed in particular on the functioning of the Extractives Industry Transparency Initiative and its new standard for reporting on payments made by extractive companies to governments. Given the important role which the extractive sector plays in supporting growth and development in many G20 countries, transparency is essential to ensure that citizens can hold their governments accountable for the way revenues from their natural resources are used.

17. Legislation and enforcement of laws must be bolstered by a culture of intolerance towards corruption. To that end, we have also examined the **education and training programs** we use to raise awareness of corruption and instil values of integrity, honesty, fairness and probity. Of particular value, the UNODC provided us with an overview of the full range of educational and training tools available on their website, and we have agreed to promote awareness of this site in our countries (<http://www.track.unodc.org/Pages/home.aspx>).

18. **Rooting out corruption is as much in the interests of business as it is of governments.** Corruption distorts markets, undermines fair competition, deters investors and misdirects revenues and profits. Reputation is a key component of the value of any business: transparency and integrity are essential to attract and maintain investors, and to sustain the social license that underpins business operations. Business, civil society and government can collaborate to promote awareness and implementation of the highest codes of conduct against corrupt practises.

19. To this end, in 2013 we invited the B20 Task Force on Transparency and Anti-Corruption and also, for the first time, the C20 (the “civil 20”, represented by Transparency International) to meet with us in both Moscow and Ottawa. With meetings in advance with the co-chairs, the Group was able to discuss the B20 and C20 recommendations, as well as a number of key issues, including: how to combat solicitation; how to build the capacity of small and medium sized enterprises to combat corruption; and how to advance ‘collective action’ and integrity pacts among private companies and with governments. A shared goal is to disseminate anti-corruption practices down the supply chain throughout the G20. In this respect, we noted with appreciation the proposal by the B20 to establish a ‘Collective Action Hub’ with eventual links to the business communities in each of our countries to act as conduits for B20 anti-corruption efforts.

20. The members of the Working Group, as well as the B20 and C20 partners, believe that the Group is making a valuable contribution to our collective and individual efforts to combat corruption throughout the G20. They feel it would be useful to look beyond the two year horizon of the Group’s mandate and Action Plan, and to that end, have recommended adoption of the St. Petersburg Strategic Framework to guide the work of the Group.

21. To conclude, we believe that we are making good progress in 2013 towards fulfilling the commitments our governments made in Action Plan 2013-14. In 2014, Australia will take over the G20 Presidency and will carry this work forward.

G20 Anti-Corruption Working Group Progress Report 2013 Part III (Rev 2)

Chart 1: Anti-Corruption Treaty and Legislative Framework

	Arg	Aus	Brz	Can	Chn	Fra	Ger	India	Indo	It	Jpn	Mex	Rus	SAR	SAf	S.Kor	Spa	Tur	UK	US	EU	
UNCAC Ratified	Y	Y	Y	Y	Y	Y	No	Y	Y	Y	No	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	n/a

Use of UNCAC peer review voluntary options																					
Publication of full report	C*	C*	Y*	C	n/a	Y*	n/a	n/a*	No	C*	n/a	*	C	n/a	Y	Y*	Y	n/a	C*	Y*	n/a*
Involvement of civil society	Y*	Y*	Y*	C	n/a	Y*	n/a	n/a	Y*	C*	n/a	*	Y*	n/a	Y	Y*	No	n/a	Y	Y*	n/a*
Involvement of business	Y*	Y*	Y*	C	n/a	Y*	n/a	n/a	Y	C*	n/a	*	Y*	n/a	Y	Y	No	n/a	Y	Y*	n/a*
Allowing country visits	No*	Y*	Y*	C	n/a	Y*	n/a	n/a	n/a	C*	n/a	*	Y*	n/a	Y	Y*	Y*	n/a	Y*	Y*	n/a*

Party to OECD Convention	Y*	Y	Y	Y	No	Y	Y	No	n/a	Y	Y	Y	Y	No	Y	Y	Y	Y	Y	Y	No*
---------------------------------	----	---	---	---	----	---	---	----	-----	---	---	---	---	----	---	---	---	---	---	---	-----

Criminalized Foreign Bribery	Y*	Y*	Y*	Y*	Y*	Y*	Y*	No*	No	Y*	Y*	Y*	Y*	Y*	Y*	Y*	Y*	Y*	Y*	Y*	*
-------------------------------------	----	----	----	----	----	----	----	-----	----	----	----	----	----	----	----	----	----	----	--------------------	----	---

Foreign Bribery Legislation includes liability for legal person																					
Criminal Liability	No*	Y	No	Y	n/a	Y	No	No*	No	Y	Y	No	No	Y	Y	Y	Y*	Y*	Y	Y	n/a
Administrative Liability	Y	No	No	No	n/a	No	Y	No*	No	Y	No	No	Y*	Y	Y	Y	No*	Y*	No	Y	n/a
Other (specify)	Y	No	No	No	*	No	No	No*	No	Y*	No	Y*	Y*	No	No	No	No*	No	n/a	Y*	n/a

Criminalized Active Bribery(1)	Y	Y	Y	Y		Y	Y		No	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y*
Criminalized Passive Bribery (2)	Y	Y	Y	Y		Y	Y		Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y*

Asset Recovery Legislation	Y*	Y*	Y*	Y*	Y*	Y*	Y*	Y*	n/a*	Y*	Y*	Y*	No	Y*	Y*	Y*	Y*	Y*	Y*	Y*	Y*
-----------------------------------	----	----	----	----	----	----	----	----	------	----	----	----	----	----	----	----	----	----	----	--------------------	----

Whistleblower Legislation																					
Protect in the Public Sector	No*	Y	Y	Y*	Y	No*	Y	No*	Y	Y	Y	No	Y	Y*	Y	Y	Y	Y	Y	Y	*
Protect in the Private Sector	No*	Y	No	Y*	Y	*	*	No*	Y	No	Y	No	Y	Y*	Y	Y	No	Y	Y	Y	*

Legend

UNCAC = United Nations Convention Against Corruption

(1) Active Bribery = Criminalized domestic offer or payment of bribes

(2) Passive Bribery = Criminalized domestic solicitation or acceptance of bribes

n/a = no answer **or** not applicable

C = Committed to do

* = Scroll over cell for additional information

[underlined in blue](#) = indicates active hyperlink

G20 Anti-Corruption Working Group **Progress Report 2013**

PART IV: COMPILATION OF G20 RESPONSES ON PROCUREMENT

INTRODUCTION

The 2013 questionnaire included an expanded range of questions on procurement. Following is a compilation of national responses to two of those questions (#45 and #46), including web-sites where provided, regarding:

a) on-line publication of i) procurement laws and policies, including the legislation defining the use of exceptions; ii) selection of evaluation criteria; and iii) awards of contracts and modifications of contracts; and

b) new initiatives promoting public procurement transparency and integrity that have been proposed or implemented since the last progress report.

ARGENTINA

On-line publishing of procurement laws and policies

www.argentinacompra.gov.ar

New initiatives to promote public procurement transparency and integrity

By Decree No. 893/2012, the Executive dictated the regulation of the Public Procurement Regime with the purposes to improve the efficient performance of the Administration and achieving the results required by society on transparency and the fight against corruption. This new regulation tends to strengthen and deepen the efficiency, effectiveness, economy, simplicity and ethics in managing public procurements. This new system will be complemented by the rules and principles issued by Decree No. 1023/2001, published on August 13th 2001.

The management system of public procurement must comply with the general principles of:

- Reasonableness of the project and procurement efficiency to meet the public interest involved and the expected outcome.
- Promoting stakeholder concurrence and competition between suppliers.
- Transparency in the procedures.
- Publicity and advertising of the proceedings.
- Responsibility of agents and officials who authorize, approve or manage procurements.
- Equal treatment for stakeholders and suppliers.

AUSTRALIA

On-line publishing of procurement laws and policies

Information on Australian Government public sector procurement can be found on

the following website: <http://www.finance.gov.au/procurement/index.html>.

This includes the Commonwealth Procurement Rules which provide the fundamental rule-set for Government procurement.

The *Financial Management and Accountability Act 1997* provide the legislative framework for the proper management of public money and public property by the Commonwealth. This legislation can be found at the following website:

www.comlaw.gov.au

Details of Australian Government tenders and contracts are available at the following website: www.tenders.gov.au

BRAZIL

On-line publishing of procurement laws and policies

Information on procurement by the federal public administration is made available through the federal procurement portal (www.comprasnet.gov.br), the Official Gazette of the Union (www.in.gov.br), the transparency pages of individual public organisations, the Transparency Portal of the Federal Public Administration (www.portaldatransparencia.gov.br)

CANADA

On-line publishing of procurement laws and policies

Laws & Policies

- 1) The [Financial Administration Act](#) (FAA) provides Treasury Board, a Ministerial Committee which serves as the Management Board of Government, with regulatory and policy authority regarding entry into contract [section 41(1)] and general administration [section 7(a)] respectively.
- 2) The [Government Contracts Regulations](#) have been enacted pursuant to Section 41(1) of the *Financial Administration Act*. Under the regulations, contracting authorities must solicit bids with four narrow exceptions. In 2011, the regulations were amended to deem terms, to be expressly stated in contracts, that increase administrative transparency, oversight and accountability.
- 3) Canada's federal government procurements are subject to [international](#) and [domestic](#) trade agreements and [Comprehensive Land Claim Agreements](#), all of which are legal obligations.
- 4) The [Canadian International Trade Tribunal Act](#) (section 30.11) provides the Canadian International Trade Tribunal with the authority to review bid challenges for contracts covered by the trade agreements and to establish regulations for procurement inquiry, which are known as the [Canadian International Trade Tribunal Procurement Inquiry Regulations](#)
- 5) The [Department of Public Works and Government Services Act](#) and the [Procurement Ombudsman Regulations](#) mandate the Office of the Procurement Ombudsman to improve fairness, openness and transparency in federal procurement. The Ombudsman has the authority to review the procurement practices of departments and to recommend improvements; to review

complaints regarding transactions not covered by the trade agreements, which means the award of goods contracts below \$25,000 and services below \$100,000; to review complaints with respect to contract administration; and to ensure an alternative dispute resolution process is provided.

The [Treasury Board Contracting Policy](#) is the major policy instrument devoted exclusively to federal government procurement. It governs procurement for the departments and agencies of the Government of Canada and is issued pursuant to sections 7 and 41(1) of the *Financial Administration Act*. In addition to articulating the contracting policy *per se*, this procurement framework instrument alerts procurement practitioners to all other statutory or policy instruments which may affect procurement in whole or in part; for example, the *Official Languages Act*, the *Competition Act* and the *Access to Information Act*.

New initiatives to promote public procurement transparency and integrity

On July 11, 2012, Public Works and Government Services Canada (PWGSC – Canada’s major common services organization for procurement) updated its integrity provisions surrounding its procurement and real property transactions. The list of offences rendering companies and individuals ineligible to bid on PWGSC contracts was amended. The additional offences added to the list are:

- Money laundering
- Participation in activities of criminal organizations
- Income tax/excise tax evasion
- Bribing of a foreign public official
- Offences in relation to drugs.

CHINA

There is a website – <http://www.ccgp.gov.cn> designated by the Ministry of Finance to publish the procurement laws and policies, public bidding information, successful tenders, awards and modification of contracts.

New initiatives to promote public procurement transparency and integrity

New requirement has been made to increase the transparency of public procurement. In the cases of procurement from sole sources due to their amounts exceeding public bidding criteria or any other circumstances, it is required to publish the procurement demands and reasons for resorting to sole sources prior to the procurement process, so as to subject those special procurement activities to public scrutiny.

FRANCE

On-line publishing of procurement laws and policies

<http://www.boamp.fr/>

<http://ted.europa.eu/TED/main/HomePage.do>

<http://www.legifrance.gouv.fr/>

New initiatives to promote public procurement transparency and integrity

The enactment of Statute No.2009-515 of May 7, 2009 concerning review procedures regarding public procurement contracts and of Regulation of November 2009 implementing this Statute, both transposing into domestic legislation the European Union Directive 2007/66/EC aiming to improve the effectiveness of review procedures as provided by Directives 89/665/EEC and 82/13/EEC organising coordination of national provisions of Member States relating to procedures for public procurement, greatly improved the effectiveness of the judicial review and the powers of the judge regarding failures to comply with the advertising and competitive tendering obligations.

The philosophy behind this modification is simple:

1. Improve the quality and transparency of information before the awarding of the contract, in order to enhance access to the judge. The main idea is to allow the unsuccessful bidders, through sufficient information, to examine whether or not it is justified to submit a judicial challenge.
2. Require compliance of a stand-still period between the decision to award the contract and the signature of the contract, allowing the bidders to submit a challenge on the stages where irregularities can be corrected
3. Provide effective and rapid ruling on the dispute.

There has been no new initiative since the latest progress report to further promote public procurement transparency.

GERMANY

On-line publishing of procurement laws and policies

Procurement laws and policies including the legislation defining the use of exceptions and the selection and evaluation criteria are published under

<http://www.gesetze-im-internet.de/gwb/> and

<http://www.bmwi.de/DE/Service/gesetze.html>

The regions (Bundesländer) publish their procurement laws and policies for procurement underneath the thresholds in their own responsibility.

The awards of contracts above the EU-thresholds are published in

<http://ted.europa.eu/TED/main/HomePage.do>

The awards of many contracts both above and under the thresholds are published in

http://www.bund.de/DE/Ausschreibungen/Ausschreibungen-VergebeneAuftraege/ausschreibungen_node.html

INDONESIA

On-line publishing of procurement laws and policies

<http://www.lpse.lkpp.go.id/eproc>

ITALY

On-line publishing of procurement laws and policies

According to Law n. 190/2012 contracting authorities shall publish on their web sites information on: the subject of the contract notice; the economic operators invited to tender; the successful contractor; the amount of the award; the time limit to complete the work, service or supply; the amount paid. Each year, by the end of 31 January, summary tables providing information, freely available in digital format, on the previous year are published in order to allow data assessment, also for statistical purposes. Contracting authorities shall transmit such information in digital format to the Authority for the Supervision of Public Contracts that shall publish it on its web site, in a section freely available to all citizens, listed by typology of contracting authority and Region. The Authority, by means of its own deliberation, identifies the relevant information and the transmission method. Moreover, each year by the end of 30 April, the Authority shall transmit to the Court of Auditors the list of administrations which have not provided and published, in whole or in part, the information in digital format. According to art. 6, paragraph 11 of the Code of Public Contracts, if the information is not provided or false information has been provided, administrative sanctions can be inflicted by the Authority. The modifications of contracts are not published online; according to art. 6, par. 7 letter h.4 of the Legislative Decree 163/2006 (Code of Public Contracts), the Authority for the Supervision of Public Contracts in its annual report to the Parliament (also available online) makes an analysis on the modifications of contracts. The art. 37 of the recent Legislative Decree n.33/2013 provides for some public procurement publication duties according to the Legislative Decree n. 163/2006.

New initiatives to promote public procurement transparency and integrity

The Law n. 190/2012 provides also that public administrations shall publish on their websites information on budgets and final accounts, as well as on unit costs of construction of works and on costs of production of services provided to citizens; information on the costs is published on the basis of standard forms elaborated by the Authority for the Supervision of Public Contracts, that will ensure its collection and publication on its institutional website in order to allow easy comparison. According to part 1, paragraph 58, providing amendments of article 135 of the Code of Public Contracts, the contract can be annulled in the event of a conviction by final judgment of the contractor for crimes of corruption and bribery (crimes under art. 51 paragraphs 3-bis and 3-querter of the Criminal Code, articles 314, first paragraph, 316, 316-bis, 317, 318, 319, 319-b, 319-c and 320 of the Criminal Code), in relation to the status of the execution of the contract and possible consequences in respect to its aims. Furthermore, economic operators can be excluded from the procurement procedure for non-compliance with clauses of Memoranda on integrity or integrity pacts, in case it has been specified by the contracting authority in the notice, in the contract notice or in the letter of invitation (Art. 1, par. 17). According to the art.1, co. 27 of the Law n. 190/2012, some data and information that each public administration publishes on its

institutional website (see art. 1.15 and art. 1.16 Law 190/2012) have to be sent in digital format to the Italian Anticorruption Authority (CIVIT).

JAPAN

On-line publishing of procurement laws and policies

People can access to procurement information of the each ministries and agencies via websites of each of them.

For example (website is written in Japanese.)

Ministry of Finance (<http://www.mof.go.jp/procurement/>)

Ministry of Foreign Affairs

(<http://www.mofa.go.jp/mofaj/annai/shocho/chotatsu/index.html>)

New initiatives to promote public procurement transparency and integrity

The following revised articles of the Cabinet Order concerning the Budget, Auditing and Accounting came into effect as from April 1, 2013.

-We revised Article 70 of the Cabinet Order concerning the Budget, Auditing and Accounting, which added organized crime group members to the debarment list.

-We revised Article 71 of the Cabinet Order concerning the Budget, Auditing and Accounting, which added the suppliers who overcharged the government and associated agencies for their products to the debarment list.

MEXICO

On-line publishing of procurement laws and policies

<https://compranet.funcionpublica.gob.mx/web/login.html>

<http://www.funcionpublica.gob.mx/unaopspf/unaop1.htm>

New initiatives to promote public procurement transparency and integrity

Implemented: Federal Anti-Corruption Law in Public Procurement (Anti-Corruption Bill), published in June 11, 2012

Proposed: Bill of Decree that amends different articles of the Federal Law of Administrative Responsibilities of Public Officials, presented to Congress on March 3rd 2011. This Bill is pending discussion and approval by the Chamber of Deputies.

RUSSIA

On-line publishing of procurement laws and policies

In accordance with the Federal Law N94 "On public procurement" the information on selection/evaluation criteria, contracts awarded as well as some other types of information are published on the specialized official web-portal

<http://zakupki.gov.ru>.

New initiatives to promote public procurement transparency and integrity

New draft legislation on public procurement is now under consideration by the Russian Parliament. A new Federal Law "On Federal Contract System" is meant to substitute for the aforementioned Federal Law N94. The new legislation includes a wide array of novelties, including additional provisions aimed at enhancing transparency and preventing corruption (e.g. new bidding procedures, new types of information to be published online, etc.).

SAUDI ARABIA

On-line publishing of procurement laws and policies

The Saudi Government Tenders and Procurement Law issued by Royal Decree No. (M/58) dated 4/9/1427 H- 27/11/2006. The Law aims at :

1. regulating procedures of tenders and procurements carried out by government authorities and ensuring they are not influenced by personal interest in order to protect the public funds.
2. achieving maximum degree of economic efficiency in government
3. procurements and carrying out government projects at fair competitive prices.
4. promoting honesty and competition and ensuring fair treatment of suppliers and contractors in accordance with the principle of equal opportunities.
5. guaranteeing transparency in all stages of government tender and procurement procedures.

The Government Tenders and Procurements law and its implementing regulations determine selection and evaluation criteria, awards of contracts, and modification of contracts.

The Government Tenders and Procurements law and its implementing regulations include the following articles:

- Tenderers shall be provided with clear, complete and uniform information about the required work and shall be enabled to obtain such information at a specified time. Sufficient copies of the tender documents shall be provided to meet the requests of those interested in obtaining them.
- All government works and procurements shall be put up for public tender.
- Bids may only be accepted and contracted on in accordance with the conditions and specifications stipulated for them.
- Total prices and any increase or decrease thereon shall be specified in the letter of the original bid. Any decrease submitted in a separate letter shall not be considered even if accompanying the bid.
- Sealed-bids shall be opened in the presence of all members of the Sealed-bids Opening Committee on the specified date, and bid prices shall be announced to tenderers present or their representatives.
- If only one bid is submitted or several bids are submitted but found— except for one— not to conform with the terms and specifications, then such bid may not be accepted unless it is equal to prevailing prices and the work does not permit repeating the invitation of tenders, upon the approval of the competent minister or the head of the independent agency.
- The successful bidder shall submit a final guarantee of 5% five percent of the contract value within ten days from date of awarding the bid , and it shall not be released until the contractor performs his obligations and, in public work contracts, until the end of the maintenance period and the final handover of the works.
- Employees of government authorities shall keep confidential information submitted in the bids and shall not disclose it to other tenderers or others except as provided for in this Law.

- Government authorities shall announce the results of public tenders and government procurements which they contract for their execution.
- A contractor shall provide a ten-year warranty against partial or full collapse of what he constructs starting from the date of final handover to the Government Authority, if such collapse is due to a construction defect, unless the two contracting parties agree on a shorter period.
- A committee should be formed of advisors comprising from MOF and other relevant government authorities. This committee reviewed compensation claims submitted by contractors and suppliers as well as reports of deceit, fraud and manipulation, in addition to decisions of withdrawal of works. It also reviewed claims submitted by government authorities. The committee hear statements of grievant contractors and suppliers and those accused of violations, their defenses and views of the government authority.

The implementing regulations can be found on the Ministry of Finance official website:
<http://www.mof.gov.sa/English/Roles/Pages/default.aspx>

SOUTH AFRICA

New initiatives to promote public procurement transparency and integrity

Office of the Chief Procurement Officer has been established. Part of his responsibility would include implementing measures to ensure greater transparency.

SOUTH KOREA

On-line publishing of procurement laws and policies

The Republic of Korea discloses all the information stated above through KONEPS (www.koneps.go.kr), a single window of e-procurement, operated by Public Procurement Service.

New initiatives to promote public procurement transparency and integrity

"Law for Using and Promoting e-Procurement" enacted

- For the purpose of enhancing efficiency and transparency in e-procurement by managing public procurement more systematically, the law was enacted and promulgated in March 22, 2013.
- The law has articles stating the prohibition of illegal e-procurement activities, penalties against such activities, etc.

Measures to prevent the false price from being set by using e-tax invoice was established.

- For the sake of keeping suppliers from submitting the false price before contracting with MAS (Multiple Award Schedule) and also to manage the data for appropriate prices more effectively, the measures were set to require suppliers to submit e-tax invoice and e-transaction invoice per product effective from January 1, 2013.

SPAIN

On-line publishing of procurement laws and policies

<http://www.minhap.gob.es/es-ES/Areas%20Tematicas/Patrimonio%20del%20Estado/Contratacion%20del%20Sector%20Publico/Paginas/ContrataciondelSectorPublico.aspx>

[http://contrataciondelestado.es/wps/portal/!ut/p/b1/04_SjzQ0tLQ0NjI3NDDQj9CPykssy0xPLMnMz0vMAfGjzOJNjZ1NwrzCAyCPd0NDDw93Fx8Qg1NDdyNzPRzoxwVAXt3PVc!/">http://contrataciondelestado.es/wps/portal/!ut/p/b1/04_SjzQ0tLQ0NjI3NDDQj9CPykssy0xPLMnMz0vMAfGjzOJNjZ1NwrzCAyCPd0NDDw93Fx8Qg1NDdyNzPRzoxwVAXt3PVc!/](http://contrataciondelestado.es/wps/portal/!ut/p/b1/04_SjzQ0tLQ0NjI3NDDQj9CPykssy0xPLMnMz0vMAfGjzOJNjZ1NwrzCAyCPd0NDDw93Fx8Qg1NDdyNzPRzoxwVAXt3PVc!/)

New initiatives to promote public procurement transparency and integrity

A reform of the Law on public procurement is envisaged in order to reinforce the prohibition regimen applicable to public procurement to exclude all natural and legal persons convicted for a corruption related offence.

TURKEY

On-line publishing of procurement laws and policies

According to Additional Article 1 of Law No. 4734; in procurements to be conducted within the scope of this Law, stages related to procurement process, such as the tender notice, preparation and submission of the tender document, submission of the documents concerning participation and qualification, preparation, submission, and evaluation of the tenders, finalization and approval of procurement, notification of the final tender decision, and signing of the contract as well as all sorts of notifications may be realized partly or wholly over the Electronic Public Procurement Platform (EPPP) established by the Public Procurement Authority.

Detailed information can be obtained through;

- a) Public procurement legislation which includes also the use of exceptions is published online. <http://www.ihale.gov.tr/> , <http://www1.ihale.gov.tr/mevzuat/>
- b) Tender notices and tender documents which include also the selection and evaluation criteria are published online. <http://www.ihale.gov.tr/> , <https://ekap.kik.gov.tr/>
- c) Awards of contracts are published online as well. <http://www.ihale.gov.tr/> , <https://ekap.kik.gov.tr/>

New initiatives to promote public procurement transparency and integrity

In our country, although the prerequisites of a modern system of public procurement that is transparency, competition and equal treatment is achieved by the detailed arrangements for the tender notices and developed standard forms, the use of CPV's in the EU public procurement notices has been started to be used in the Turkish public procurement system. Public has been informed through the press by daily updated official website. More information is provided through the website who are related with the tenders. The number of tenders that has been announced through EKAP has increased. For example, purchases by the contracting authorities within the scope of the exception has become possible to be declared out of EKAP.

UNITED KINGDOM

On-line publishing of procurement laws and policies

<http://procurement.cabinetoffice.gov.uk/> is the UK central government site for procurement information. Details of procurement laws and policies can be found at <http://procurement.cabinetoffice.gov.uk/policy-capability/latest-policy-and-regulations/public-procurement-policy>. Transparency data can be found at <http://gps.cabinetoffice.gov.uk/about-government-procurement-service/transparency-and-accountability>, including details of all Government Procurement Card transactions over £500 and all other financial transactions over £25,000 made by the Government Procurement Service, as well as information on all contracts over £10,000. The UK Government produces quarterly reports on procurement and contracting transparency, which can be found at <https://www.gov.uk/government/organisations/cabinet-office/series/procurement-and-contracting-transparency-progress-reports>

UNITED STATES

On-line publishing of procurement laws and policies

See www.acquisition.gov; www.fbo.gov

New initiatives to promote public procurement transparency and integrity

“Acquisition Central”-- www.acquisition.gov-- an OMB E-Gov initiative, aggregates federal acquisition content by providing one website for regulations, systems, resources, opportunities, and training, and includes a list of the acquisition systems that federal government agencies and the public can access. This website was designed to create an easily navigable resource and to promote more efficient and transparent practices through better use of information, people, processes, and technology.

The government's [System for Award Management](#) (SAM) website started consolidating, in May 2012, eight of the federal procurement systems into one data base. SAM has already consolidated the capabilities of CCR/FedReg, ORCA, and EPLS listed below.

1. **CCR** (Central Contractor Registration at www.sam.gov) - Vendors wanting to do business with the government are required to register in CCR and revalidate annually. This provides payment information, validates Small Business Administration certifications as small, disadvantaged, 8(a), or HUB-Zone businesses, calculates business size, and validates taxpayer IDs with IRS.
2. **ORCA** (Online Representations and Certifications Application at www.sam.gov) - This web-based application allows vendors to enter Representations and Certifications once for use on all federal contracts. Vendors update these "reps and certs" annually.
3. **EPLS** (Excluded Parties List System at www.sam.gov) - Parties excluded from receiving federal contracts and certain subcontracts are identified on this web-based system. Also identified are individuals excluded from certain types of federal financial and non-financial assistance, including benefits.
4. **FBO** (Federal Business Opportunities (FedBizOpps) at www.fbo.gov) - The single government point-of-entry for posting solicitations over \$25,000 and other business opportunities, and other documentation related to those opportunities. While opportunities from all agencies are posted to www.fbo.gov, some opportunities (that are below certain thresholds, or

acquired via simplified processes in the Federal Acquisition Regulation (FAR)) are not required to be posted.

5. **WDOL** (Wage Determinations On-Line at www.wdol.gov) - This government wide web site makes Service Contract Act (SCA) and Davis-Bacon (DBA) wage determinations easily accessible by the acquisition community.
6. **FPDS-NG** (Federal Procurement Data System-Next Generation at www.fpds.gov) - This online repository provides data on all federal contract award actions over \$3,000. Standard and custom reports are easily accessible.
7. **PPIRS** (Past Performance Information Retrieval System at www.ppirs.gov) - The federal government acquisition community can access timely and pertinent contractor past performance information via this web-enabled, government wide application.
8. **eSRS** (Electronic Subcontracting Reporting System at <http://www.esrs.gov/>) - This system is designed for prime contractors to report accomplishments toward subcontracting goals required by their contract.

SAM will also include the [Catalog of Federal Domestic Assistance](#) (CFDA). CFDA provides a full listing of all federal programs available to state and local governments (including the District of Columbia); federally-recognized Indian tribal governments; Territories (and possessions) of the United States; domestic public, quasi- public, and private profit and nonprofit organizations and institutions; specialized groups; and individuals.

The U.S. government also developed a performance reporting tool, the Federal Awardee Performance and Integrity Information System (FAPIIS), to address the requirements in the National Defense Authorization Act of 2009 (Public Law 110-417), which was enacted on October 14, 2008. Section 872 of this Act required the development and maintenance of a public information system that contains specific information on the integrity and performance of covered federal agency contractors and grantees. Specific FAPIIS information includes government entered records (Administrative Agreements; Defective Pricing; DoD Determination of Contractor Fault; Non-Responsibility Determination; Recipient Not-Qualified Determination; Termination for Cause; Termination for Default; and Termination for Material Failure to Comply), Suspension/Debarment information if the entity has any of these records and Administrative Proceedings information entered by the company. This system and data reports are available at www.fapiis.gov.

EUROPEAN UNION

On-line publishing of procurement laws and policies

The current generation of EU public procurement Directives — Directives 2004/17/EC and 2004/18/EC — are the product of a long evolution that started in 1971 with the adoption of Directive 71/305/EEC. By guaranteeing transparent and non-discriminatory procedures, these Directives principally aim to ensure that economic operators from across the Single Market benefit fully from the basic freedoms in competing for public contracts. A comprehensive economic evaluation has shown that the public procurement Directives have achieved their objectives to a considerable extent. They have resulted in greater transparency and higher levels of competition while achieving measurable savings through lower prices.

The main aim of (current and future) EU-legislation on public procurement is to ensure the respect of the principles of the Treaty and in particular the principle of freedom of movement of goods, the principle of freedom of establishment and the principle of freedom to provide services and the

principles deriving therefrom. Such as: the principle of equal treatment, the principle of non-discrimination, the principle of mutual recognition, the principle of proportionality, the principle of transparency, and to guarantee the opening-up of public procurement to competition (recital 2 of Directive 2004/18/EC). As transparent and non-discriminatory procedures play a major role in the fight against corruption, several provisions of the current directives can contribute to a fight against corruption. In particular, provisions on exclusions (article 45 of Directive 2004/18/EC), on publication (chapter VI of this Directive) and on abnormally low tenders (article 55 of this Directive) aim at specifying requirements on transparency. Several provisions reiterate the principle of non-discrimination enshrined in the Treaty on the Functioning of the EU and in article 2 of the public procurement Directive.

New initiatives to promote public procurement transparency and integrity

In December 2011 the European Commission proposed a revision of the current public procurement directives. The proposed revision aims at simplification of procedures, but strengthens in the same time the anti-corruption safeguards. Among the new proposed provisions mention should be made of those regarding: conflict of interest, setting up of national oversights to monitor the implementation of public procurement rules, introducing red flagging/alert systems to possible fraud and corruption, centralizing of data, stricter rules for modification of contracts, expanded exclusion criteria, monitoring of concluded contracts. The European Commission proposal is currently undergoing adoption procedures with the European Parliament and Council (EU Member States).