



ORGANISATION FOR ECONOMIC
CO-OPERATION AND DEVELOPMENT

**OECD-MENA
GOOD GOVERNANCE FOR DEVELOPMENT (GFD) INITIATIVE IN ARAB COUNTRIES**

TERMS OF REFERENCE

**PILOT PROJECT ON INTEGRITY IN PUBLIC PROCUREMENT IN MOROCCO
JOINT LEARNING STUDY**

1. INTRODUCTION

This report, drawn up as part of the Good Governance for Development (GfD) Initiative in Arab Countries, sets out the purpose and structure of the project on the integrity of public procurement in Morocco. Launched at the request of Morocco, the project seeks to increase the synergy between the regional GfD Initiative in Arab countries and the OECD activity on integrity in public procurement, and more specifically the *Checklist for Enhancing Integrity in Public Procurement*.

The purpose of the project is to analyse the steps taken by Morocco to modernise its public procurement system. These reforms are part of a broader framework to fight corruption and promote integrity in public services, which is high on the agenda in Morocco. There are several aspects to the reforms, including the revamping of procurement laws and procedures, the use of new technologies, the use of declaration of assets, and measures to back up and co-ordinate the drive for reform.

The main outcome of this project takes the form of a study drawn up by the Secretariat, in close co-operation with Moroccan and OECD experts. The study will be put on-line on the OECD site dedicated to public procurement reform.

This *pilot project* was initiated by Working Group I on Civil Service and Integrity, chaired by Morocco. Once the pilot project has been completed in Morocco, it might be of use to other interested countries in the Middle East and North Africa region.

2. WORKING GROUP 1 ON CIVIL SERVICE AND INTEGRITY

This project is part of the work of Working Group I on Civil Service and Integrity, one of the six pillars of the GfD Initiative in Arab countries. The goal of this Working Group is to transfer knowledge and exchange good practices between OECD and Arab countries with regard to the promotion of integrity and the prevention of corruption in the public service. The Group's activities include seminars, symposia, conferences and fact-finding field missions. Morocco has already hosted numerous meetings and seminars relating to the Initiative. Through this project on integrity in public procurement, Morocco is confirming its interest in, and determination to address, the modernisation of public governance and integrity.

The project on integrity is a joint learning process between the Arab and OECD experts involved, as well as being a significant capacity-building tool. The fact-finding field mission in the project will provide scope for open dialogue between the experts, enabling them to:

- Gain broad insight into how public procurement works in Morocco,
- Identify the main challenges in terms of good governance of the system, and
- Define what needs to be done to meet those challenges.

This project also reflects the direction of future work by Working Group I, which is seeking to respond more closely to specific requests from the Arab countries regarding integrity.

This project on integrity in public procurement, as part of the GfD Initiative in Arab Countries, is being conducted in close co-operation with the OECD activity on Integrity in Public Procurement.

3. OECD ACTIVITY ON INTEGRITY IN PUBLIC PROCUREMENT AND INPUT FROM MOROCCO

The public procurement of goods and services accounts for a large proportion of the activities of governments in general and is therefore highly vulnerable to corruption. In addition, procurement is a crucial tool for efficiency in public resource management. However, it involves commercial operations anchored in a political system. Public authorities must therefore obey the principle of good governance and ensure transparency, accountability and integrity in the procurement process.

Lack of transparency and accountability was recognised as a major threat to integrity in public procurement at the *OECD Global Forum on Governance: Fighting corruption and promoting integrity in public procurement* in November 2004. This project on integrity in public procurement in Morocco is part of a long-term exercise launched by the OECD in 2004.

One of the leading outputs of this activity has been the recent publication "*Integrity in Public Procurement: Good Practice from A to Z*", based on an international survey (for further information on all the stages in the project, see Annex 1). This is a collection of good practices identified in both OECD and non-Member countries relating to the fight against corruption in public procurement (see also www.oecd.org/gov/ethics/procurement).

On the basis of identified good practices, a "Checklist" for enhancing integrity in public procurement has been developed. Its purpose is to guide the public decision-makers in charge of modernising and reforming the public procurement system to prevent corruption and reinforce trust in appropriate and effective public spending. The Checklist gives a series of recommendations for the modernisation and reform of the public procurement system.

The Checklist is based on the OECD publication on "*Integrity in Public Procurement: Good Practice from A to Z*", and on other sources, including the studies drawn up as part of the dialogue with non-Member countries, including Morocco. The Checklist will be tested via consultations in various regions across the world, enabling its validation as a genuine international instrument.

4. ELEMENTS AND STRUCTURE OF THE PROJECT

PROJECT GOALS

The goals of the project on integrity in public procurement in Morocco are:

- To analyse the progress made by Morocco in modernising its public procurement system;
- To produce recommendations on improving integrity in public procurement in Morocco;
- To assist Morocco in grasping the challenges of integrity in public procurement;
- To explore practical applications of the Checklist in the context of the OECD activity on Integrity in Public Procurement;
- To encourage mutual learning without seeking comparisons with other national systems.

OUTPUTS

The main output of the project is:

- A study by the Secretariat on integrity in public procurement in Morocco, highlighting the country's experience of fighting corruption and promoting integrity in public procurement. The findings of the study will be presented at the *Global Forum on Integrity and Trust in Government*, organised by the OECD in co-operation with the Organization of American States in January 2008 in Chile, and at the next meeting of Working Group I on Civil Service and Integrity.

The intermediate outputs of the project are:

- Background documents for the project (Terms of Reference, timeframe)
- A short document in French, translated into Arabic, explaining to the Moroccans involved the project's purpose and *modus operandi*.
- An analytical template setting out the structure of the study and the methodology used.

TIMEFRAME AND STAGES OF THE PROJECT

The study is to be drawn up in several stages to constitute a mutual learning approach.

1) Stage 1: Preliminary research and stakeholder identification

Preliminary research will be conducted by the Secretariat using the information provided by Morocco and the data available in all the documents and/or on the Internet. The Secretariat will also draw up a factsheet that will help to focus on the main aspects of the system from the integrity angle. The factsheet will be sent to Morocco prior to the fact-finding mission, and the responses will serve in drawing up a series of questions for interviews during the mission. This initial phase of the project will also include the selection of Moroccan interviewees, their organisations and the experts involved in the project, a list that will subsequently be validated by Morocco.

2) Stage 2: Fact-finding field mission

This stage will be a fact-finding field mission to Morocco by experts selected from OECD and Arab countries, who will conduct an assessment of the system and give a progress report. The mission is a key feature of the project, for it involves gathering the requisite information on the structure and functioning of the Moroccan public procurement system. The mission will spend five days on the ground, with the experts visiting the various Moroccan organisations to conduct interviews and gather information. The main interviewees will be Moroccan government experts in charge of the public procurement system. Further interviews will also be held with representatives from academia, the private sector and NGOs. On the basis of this fact-finding field mission, a study will then be prepared to demonstrate what Morocco has been doing to fight corruption in public procurement. The study will be supplemented with a series of targeted, practical recommendations to improve the Moroccan system.

3) Stage 3: Discussion and approval of the study

Findings and conclusions from the previous stages could be discussed at a meeting of Working Group 1, and at an OECD international round table held to validate the Checklist.

The following agenda suggests a timeframe for the practical activities involved in preparing and drafting the study:

Activity 1	Launch of the project by Morocco's National Co-ordinator for the Initiative and definition of the broad framework of the project	May– June 2007
Activity 2	Development of the Terms of Reference for the project by the Secretariat	July 2007
Activity 3	Access given by Morocco to documents describing the public procurement system there; provisional list of institutions to be visited during the fact-finding field mission, and of interviewees	August– September 2007
Activity 4	Gathering of targeted information using a short questionnaire drawn up by the Secretariat	September 2007
Activity 5	Fact-finding mission with experts from OECD and Arab countries	22-26 October 2007
Activity 6	First draft of the study by the Secretariat	November 2007
Activity 7	Discussion of the study and its approval by Morocco	Late December 2007
Activity 8	Presentation of the project outcomes to the <i>Global Forum on Integrity and Trust in Government</i> in Chile	24-25 January 2008
Activity 9	Presentation of project outcomes at the next meeting of Working Group 1 on Civil Service and Integrity (GfD)	Date to be set
Activity 10	Study on Morocco made available on line, along with the Checklist, on the OECD website	Date to be set in 2008

MEMBERS OF THE EXPERT GROUP AND INTERVIEWEES

1) *Choice of experts*

If the fact-finding field mission is to be a success, the choice of experts is crucial. They should be experienced in their respective areas and come from both OECD and Arab countries.

The final list of experts has been agreed by Morocco and the OECD Secretariat, based on a detailed proposal from the Secretariat. The involvement of one or more experts from other Arab countries in the region may in the future provide scope to use these terms of reference in other Arab and/or non-Arab countries. A Moroccan expert could serve as the interface in any future missions to Arab countries. This idea of an exchange of experts makes this pilot project on integrity in public procurement even more innovative and fosters mutual learning between Arab experts.

The choice of experts is also determined by the analytical template and methodology used for the project. The analytical template, addressed in an annex to this report, is based on the OECD publication “*Integrity in public procurement: Good practice from A to Z*”.

Having regard to the main themes in the above publication (see details in Annex 2), the areas of specific interest to Morocco with regard to integrity in public procurement and the assessment of its system are as follows:

- The impact of decentralised government on the public procurement system, including the delegation of specific responsibilities to the regional tier of government
- The use of new technologies in the procurement process. Morocco has placed high on its agenda the putting on line of the whole procurement cycle and the use of new technologies in the process.
- The importance of control, both of procedures and individuals.

Given the analytical template and the areas of specific interest to Morocco, the Secretariat considers that the experience of the following countries could be useful during the project:

- **Canada**, particularly from the standpoint of the management of public funds and of delegated responsibility to the regional tier of government
- **United Arab Emirates (Dubai)**, particularly from the standpoint of the e-procurement
- **France**, particularly from the standpoint of control and internal auditing.

2) *Role of the experts in the project*

The experts help to prepare the project on integrity in public procurement and participate actively in its implementation. During the five-day fact-finding field mission, they will question Moroccan interviewees using the Framework for interviews drawn up by the Secretariat. They draw on their expertise to understand the major challenges facing the public procurement system in Morocco and help to formulate recommendations for its improvement. The handwritten notes taken by the experts during the interviews will serve in drafting the final study. Thus the experts are in charge of documenting the information provided during the mission.

3) Selection of Moroccan interviewees

The Moroccan interviewees play a leading role in the success of the project, constituting a vital source of information for the study. Hence the importance of selecting them with care. In most cases, those interviewed on similar missions work for central or local government in the country concerned. In order to provide a wide range of views, the interviewees will also include academics and representatives of NGOs and the private sector. The final list of Moroccan interviewees and their respective organisations will be agreed by the Moroccan government and the OECD Secretariat, on the basis of the proposal by Morocco.

PROJECT MANAGEMENT: COMMITMENTS BY THE OECD SECRETARIAT AND MOROCCO

The success of the project calls for close co-operation between the OECD Secretariat and its partner Morocco. They will make the following commitments:

	OECD SECRETARIAT - COMMITMENTS AND RESPONSIBILITIES	MOROCCO - COMMITMENTS AND RESPONSIBILITIES
STAGE 1: PRELIMINARY RESEARCH	Conducts preliminary research in available documentation on the fight against corruption in public procurement in Morocco	Provides additional background material (preferably in French) as a basis for research
		Identifies interviewees
	Draws up a short factsheet	Completes the factsheet prior to the mission
STAGE 2: FACT-FINDING FIELD MISSION	Draws up a questionnaire for the interviews	Organises the interviews (premises, interpreting requirements, etc.)
	Identifies experts and invites them on the fact-finding mission	Validates the experts identified by the Secretariat
	Deals with the organisational side of the fact-finding field mission (including transport for the experts, accommodation etc.)	Helps with the organisational side of the fact-finding field mission (including advice on logistics, welcoming experts etc.)
STAGE 3: DISCUSSION AND APPROVAL OF THE STUDY	Draws up a synthesis report illustrating the outcome of the mission	
	Presents the preliminary findings of the study	Approves the final document
	Puts the study on Morocco on line on the OECD Internet site	

ANNEX 1: STAGES IN THE OECD PROJECT ON INTEGRITY IN PUBLIC PROCUREMENT

OECD experience of integrity in public procurement

Public procurement is the government activity most vulnerable to corruption. In 2004 the OECD launched a long-term project to promote integrity and prevent corruption in procurement.

Stage 1 of the project was the *OECD Global Forum on Governance: Fighting corruption and promoting integrity in public procurement*. The Forum, hosted by the OECD in co-operation with the French Ministry of the Economy, Finance and Industry, was held in Paris in late November 2004. Government experts and officials, along with representatives of the private sector, trade unions and civil society, met to discuss issues of transparency, accountability and integrity in public procurement.

Discussions at the Forum demonstrated the need for a multi-disciplinary approach in promoting good governance and safeguarding integrity at every stage of the procurement procedure; from needs assessment through the bidding process to contract management and payment.

The *Expert Meeting on Integrity in Public Procurement*, held in Paris in June 2005, validated the insight gained at the Global Forum, and the participants decided to initiate a project to map out good practices using a questionnaire, the purpose being to draw up a report aimed at promoting integrity and preventing corruption in public procurement.

The OECD experts attending the *OECD Symposium Mapping out Good Practices for Integrity and Corruption Resistance in Public Procurement* in late November 2006 approved the findings of the data from the questionnaire. They called for the inventory of good practices to be broadened to cover non-Member countries. The Symposium was followed by the *OECD Global Forum on Governance: Sharing Lessons on Promoting Integrity in Procurement*, which launched a valuable dialogue with non-Member countries. Discussions at both events made a major contribution to the final report entitled “*Integrity in Public Procurement: Good Practice from A to Z*”. For further information, please refer to: www.oecd.org/gov/ethics/procurement.

ANNEX 2: STRUCTURE AND ANALYTICAL TEMPLATE OF THE STUDY

1) Structure of the study

The study has been designed as follows:

- A. An introductory overview of the legal and institutional framework of the procurement process and of recent reforms in Morocco (approx. 1 page);
- B. An objective analysis of the strengths and weaknesses of the system to prevent corruption throughout the whole public procurement cycle, from needs assessment (e.g. planning, budgeting) to contract management and payment (approx. 12-15 pages);
- C. A case-study of good practice in Morocco to prevent corruption in public procurement (approx. 1-2 pages);
- D. A series of recommendations on avenues for reform to improve the current system (approx. 3-5 pages).

2) Analytical template

The analytical template will focus more specifically on three areas, corresponding to the **mechanisms and procedures** that promote:

I. An adequate level of transparency throughout the procurement process to provide a level playing field for bidders and contractors.

The initial focus of the analysis will be on:

- The specific procedures and instruments used to provide bidders with equal, timely and consistent access to information.
- The information provided at each stage in the procurement process, from needs assessment to contract management, and the restrictions on the release of information.
- Derogation from competitive public tender, in particular measures to ensure integrity when there is no open procedure.

Special emphasis will be placed on the role of new information and communication technologies to improve transparency at every stage in the procurement process.

II. Professionalism to prevent the risk of mismanagement and corruption in public procurement

The second focus of the analysis will be on management procedures and ethical standards, which are crucial in ensuring the professionalism of procurement officers and other players in the procurement process. The study will inventory:

- The risks of mismanagement and corruption as identified in the procurement process in Morocco.

- The internal instruments and techniques for ensuring that public funds are used in public procurement according to the purpose intended.
- Specific anti-corruption and conflict-of-interest policies in public services, particularly procurement.

The analysis will focus more specifically on the challenges to be met at a time when procurement management is being decentralised in Morocco.

III. Accountability and control, from needs assessment to contract management and payment

The third focus of the study will review the control mechanisms applying to both procedures and individuals. Existing measures will be analysed so as to:

- Balance the discretionary power of civil servants (including procurement officers, senior officials, etc.) with the need for accountability.
- Involve stakeholders (in particular private sector, end-users, civil society and the public at large) in the procurement process.
- Ensure fair and timely resolution of formal administrative complaints related to the procurement process.