Integrity Framework for Public Infrastructure

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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.

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"Corruption is one of the most toxic impediments to efficient and effective investment."

- Angel Gurría, OECD Secretary-General, 2015 OECD Integrity Forum

Public infrastructure is a common good, with positive direct and indirect benefits for the economy and society as a whole

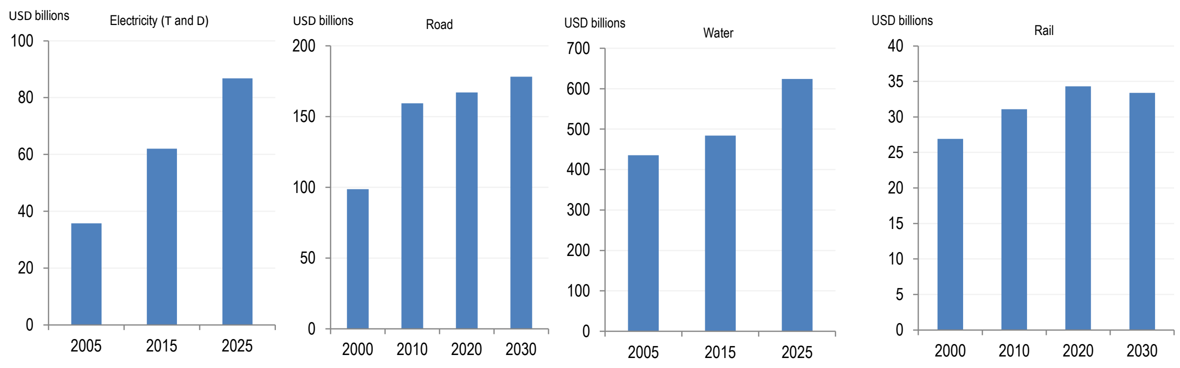
Investment is public or private expenditure that adds to the public and private physical capital stock. This includes fixed assets such as dwellings (excluding land), other buildings and structures (roads, bridges, airports and dams), transport equipment, machinery, cultivated assets, and intangible fixed assets (such as intellectual property). Investment is a driver for sustainable growth and development. It is essential for the provision of basic services such as electricity, water and sanitation and is also a requisite for the delivery of public services like health, education and security.

Investment constitutes a significant share of the gross domestic product (GDP) in OECD countries, close to 20% on average. Although, mainly private (about 15% is public), governments have a central role to play in infrastructure investment. Infrastructure is a public good insofar as it is predominantly non-excludable and non-rival in consumption, and as such is best provided for by public authorities. In addition, public investment can be thought of as a type of policy tool by which governments can promote sustainable economic growth, innovation, and contribute to well-being through the provision of basic infrastructure and public services. Indeed, governments use public investment, and especially investment in infrastructure, to respond to a variety of policy challenges. It has the potential to boost economic performance, increase productivity and generate aggregate demand, by improving human capital and encouraging technological innovation.

Many countries are facing infrastructure gaps, both in terms of quantity and quality

Expenditures to build new infrastructure or maintain old ones have generally not kept pace with countries' needs, with this challenge having been identified as one of the main factors that slow down economic recovery and hinder development efforts. Indicators suggest that a wide gap exists between infrastructure availability and the need for it, particularly in emerging economies and low-income developing countries. The infrastructure gap is not exclusively a question of quantity; the quality of infrastructure should also be taken into account. The requirement for infrastructure investment is a concern for advanced economies as well; signs of deteriorating quality of infrastructure have been recorded in recent years. A large percentage of public investment goes to maintenance costs associated with past infrastructure investments.

Figure 1. **Average annual infrastructure investment requirements in OECD countries to 2025/30**



Source: OECD (2007a), *Infrastructure to 2030 (Vol.2): Mapping Policy for Electricity, Water and Transport*, http://dx.doi.org/10.1787/9789264031326-en.

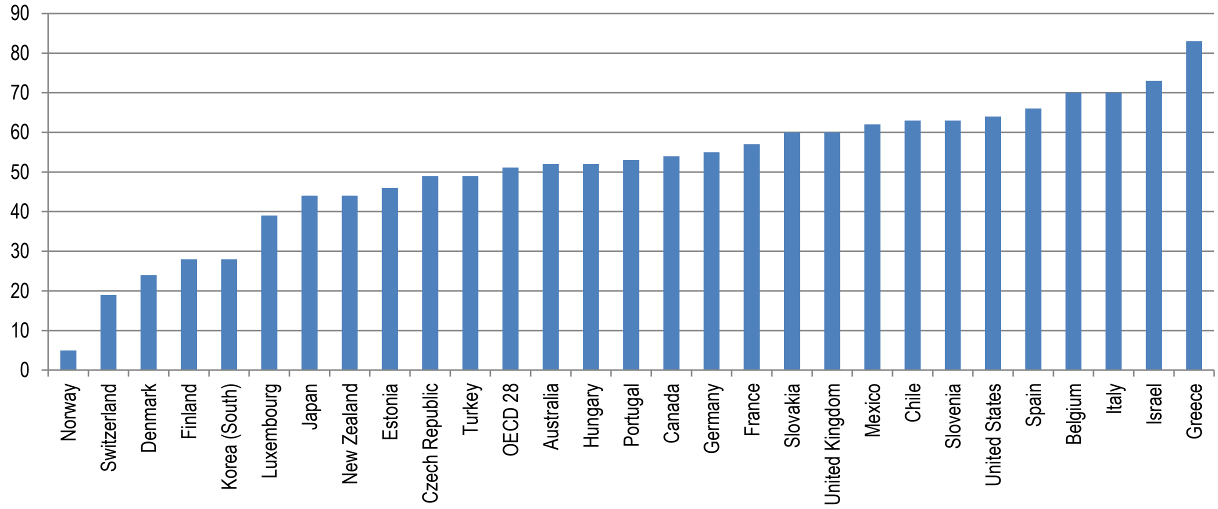
Avoiding capture in public investment is essential to maximise its benefits

Against this background, simply increasing the amount of public spending in infrastructure is not necessarily the solution; Public investment must be productive and efficient in order to achieve real economic and social value, and to contribute to building sustainable and inclusive growth. Influence by vested interests in the decision may result even in negative return of productivity or excessive infrastructure, creating "white elephant" projects.

The nature of public investment in infrastructure makes it particularly prone to corruption

Bribery, policy capture, embezzlement, abuse of functions, and trading in influence are common examples of corrupt acts, although the exact legal definitions of these vary across countries. Corruption allegations concerning government-financed infrastructure projects are common. Indeed, the extent of public officials' discretion over the investment decision, the large sums of money involved, and the multiple stages and stakeholders implicated contribute to making them more vulnerable to undue influence.

Figure 2. **Percentage of respondents who think the government is run by a few big entities acting in their own best interests**



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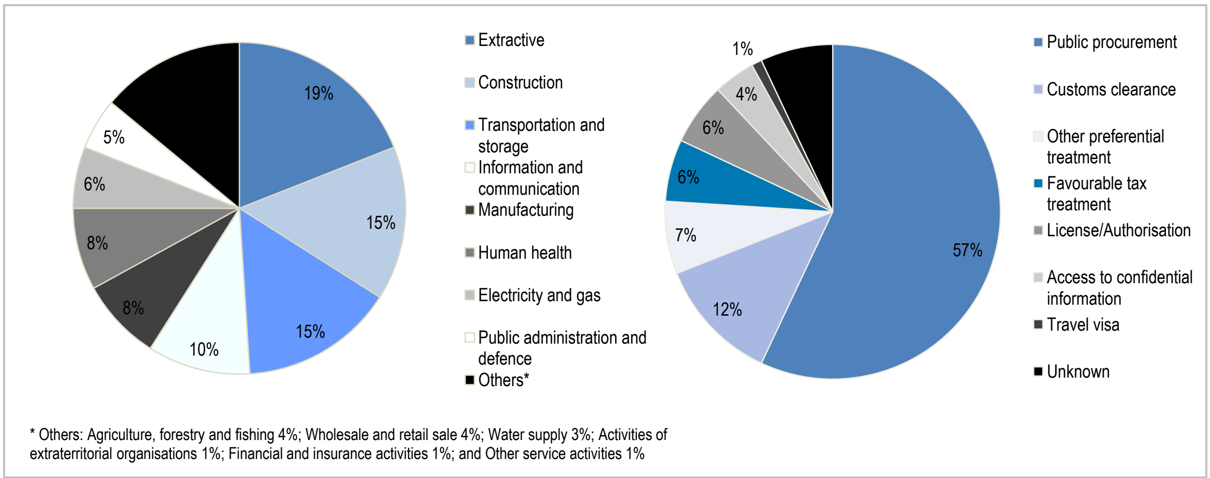
Source: Transparency International (2013), "Global Corruption Barometer 2013", www.transparency.org/gcb2013.

Figure 3. **Sectors where more cases of foreign bribery occurred and the purpose of those bribes, 2014**



Note: Actors are identified with reference to the United Nations International Standard Industrial Classification of All Economic Activities (UN ISIC), Rev.4 (http://unstats.un.org/unsd/cr/registry/regcst.asp?Cl=27&Lg=1).

Source: OECD (2014b), *OECD Foreign Bribery Report: An Analysis of the Crime of Bribery of Foreign Public Officials*, OECD Publishing, Paris. http://dx.doi.org/10.1787/9789264226616-en.

Corruption creates extra burdens and costs on investment, which reduces value for money and the quality of results

Corruption comes with a high cost. Direct costs include bribe transfers, higher expenses, scarcity of essential services, lower quality and misallocation of public funds. Corruption also incurs more subtle indirect costs, such as lower incentives to innovate if market opportunities or jobs are allocated on other grounds than qualifications, the effect of not receiving the government services one is entitled to, lower trust in government institutions and adverse selection of contractors. The costs of fraud and corruption in public investment are not only economic, but also institutional and political, with serious implications for the legitimacy of the state apparatus and the ability of elected leaders and government institutions to function effectively.

Table 1. **Consequences of corruption across sectors**

	Infrastructure	Extractives
Misallocation of state revenues	Over-investment and mis-investment in infrastructure facilities.	Budget skewed away from services for the poor. Resource dependency common.
Wasted resources	Too-expensive subsidies. Over-inflated costs in construction cause losses for taxpayers.	Illicit financial flows may reflect stolen state revenues. Inefficient sector governance hampers production and revenue potential.
Inflated prices	Bribes demanded for access to water and electricity. More expensive power supply.	Framework conditions for industrial development in other sectors of the economy largely neglected, resulting in uncompetitive prices for individuals and firms.
Reduced quality	Low-quality roads and other constructions. Poorer utility service provisions (like power cuts).	Few consequences if services are inferior. Lower quality of basic service delivery, including health and education.
Scarcity	Network services not necessarily provided to all districts, despite contractual commitments.	"Scarcity" of competitors if tenders for oil licenses are manipulated.
Unfair allocation of benefits	Poor segments more exposed if there is government failure behind the provision of electricity, water and sanitation.	Political corruption causes income inequalities.
Environment, health and safety	Low quality construction and use of poor or toxic materials damages health, causes invalidity and claims lives. Contamination of water supply, food chain and sanitary systems.	Environmental damage, lack of safety in production (causes health damage and deaths). Contamination of water supply, food chain and sanitary systems.
Other negative consequences	Tax/accounting-related fraud. Theft of electricity supply. Embezzlement in construction.	Conflict/civil war, terror attacks, bunkering (stolen oil), illegal mining.

Source: Based on: OECD (2015c), *Consequences of Corruption at the Sector Level and Implications for Economic Growth and Development*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264230781-en.

Towards a comprehensive, coherent and focused policy framework to promote integrity in public investment for sustainable economic growth

The *Integrity Framework for Public Investment* aims to assist governments and private sector actors in mitigating corruption risks in public investment by identifying corruption entry points over the entire public investment cycle. The framework identifies tools and mechanisms to promote integrity in public investment, including measures for promoting ethical standards, managing conflict of interest, strengthening monitoring and controls, and increasing transparency.

The instrument can be applied at national and sub-national levels and across sectors, including transport, construction, extractive industries, and energy supply, taking into account the needs and characteristics of the specific investment at stake.

Figure 4. **Public investment cycle**

Source: OECD

Table 2. **Integrity Framework for Public Investment**

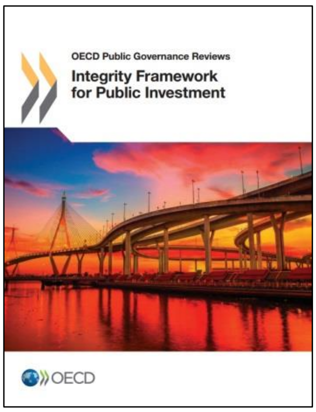
Phase	Policy objective	Policy options
Applicable to all phases of the public investment cycle	Providing standards of conduct of elected and non-elected public officials	• Developing codes of conduct, which include: ➢ clear mission of the organisation, its values and principles ➢ clear definitions on what constitutes a corruption risk ➢ guidelines on how public servants deal with ethical dilemmas, prejudices and grey areas that are encountered in everyday work ➢ sanctions for integrity breaches. • Raising awareness and capacity on standards of conduct through training on the code of conduct, values and principles. • Defining public officials in "at risk" areas with specific codes of conduct, especially for those who have higher interaction with private sector.
	Identifying and managing conflict-of-interest situations	• Developing conflict-of-interest and private-interest disclosure provisions (OECD 2003 Guidelines for Managing Conflict of Interests in the Public Service). • Providing clear examples and situations of private interests that may lead to potential conflict of interest situations. • Setting specific restrictions and prohibitions on public officials (especially in decision-making positions) working in the public procurement authority or responsible for public procurement in government bodies. • Requiring public officials to disclose their family members' private interests where potential conflicts of interest may arise.
	Providing standards of conduct for the private sector and consultants	• Ensuring that the public sector develops and implements codes of conduct for private sector employees, which include: ➢ clear examples of activities that will compromise the ethical behaviour of the business when working closely with the public sector ➢ punishments for integrity breaches including administrative, disciplinary and criminal breaches. • Applying strong legal sanctions to contractors who offer bribe payments such as restrictions on participation in future investment projects or other public procurement processes. • Ensuring support and commitment from senior management in the prevention of corruption in public investment.
	Regulating and limiting the use of confidential information by public officials	• Cancelling retrospectively the decisions based on confidential information. • Setting up mechanisms that prevent confidential information, authority or influence from being used for personal gain or for improper advantage of other businesses and non-profit organisations.
	Providing protection for employees who report wrongdoings or breaches of integrity in both the private and public sector	• Providing consistent advice and support to staff in case of questions or having witnessed misconduct and integrity breaches through a whistleblower hotline. • Developing guidelines to report wrongdoing in case of integrity breaches or mismanagement. • Providing effective protection ensuring that private and public sector employees, as well as their careers, are protected, in case they report wrongdoing in good faith.
Needs definition and selection phase	Ensuring that public investment decisions are based on national, regional or sectorial objectives	• Providing online platforms where the public is invited to inform national infrastructure priorities. • Setting up an independent body responsible for assessing the national infrastructure needs. • Co-ordinate with sub-national governments to ensure that strategic priorities for investment are well aligned across levels of government.

Phase	Policy objective	Policy options
	Ensuring that the selection of public investment projects does not favour a particular interest group or individual over the public interest	• Rendering the decision-making process more transparent by: ➢ Making relevant information available publicly through channels such as websites and newsletters. ➢ Ensuring that this information reaches civil society and the media, who play a particular role in keeping stakeholders accountable. ➢ Publishing information and reports regarding long-term national and development plans. • Increasing citizen participation through: ➢ participatory budgets. ➢ websites for citizens to prioritise public investments. • Inviting relevant groups to participate in the decision-making process: ➢ finding the right mix of participants and ensuring that no group is inadvertently excluded. ➢ carrying out stakeholder mapping and analysis. ➢ consulting experts and "outsiders" from the public administration to evaluate the pertinence of the public investment, and publicly disclosing the results of that consultation. • Securing transparency and integrity in lobbying (OECD 2010 Principles on Transparency and Integrity in Lobbying) by: ➢ introducing a lobbying registry. ➢ implementing regulations of revolving doors (e.g. cooling-off period, etc.). ➢ ensuring transparency/balanced composition in advisory group.
	Preventing elected officials from choosing a specific public investment to benefit contractors who contributed to their political campaign	• Banning certain types of private contributions, in particular: ➢ corporations with government contracts or partial government ownership. ➢ corporate donations, trade unions, etc. ➢ foreign corporate donations. • Introducing a limit for private funding. • Requiring disclosures of information regarding political funding and ensuring that: ➢ information is timely, reliable, accessible and intelligible; public disclosure of reports. ➢ information is complete and includes private donations. • Promoting media and civil society scrutiny. • Ensuring that companies/contractors publish their contributions to political campaigns and political parties on line. • Ensuring independent and efficient oversight by: ➢ strengthening independence of monitoring body and process. ➢ providing capacity through sufficient resources and specialised auditing capacities and methodologies. • Providing for dissuasive and enforceable sanctions in the case of breaches.
Appraisal phase	Ensuring that the awarding of the contract to banks to finance the investment is based on cost and their capacity to finance, and that it is not inflicted by other undue influence	• Bankers following codes of conduct with specific regulations requiring more scrutiny for those having higher interaction with the public sector. • Implementing legislations or codes of conduct that explicitly prohibit public officials from receiving certain payments or gifts that may create conflict-of-interest situations to their official duty. • Demanding higher scrutiny for senior officials who have more discretion and decision-making power.
	Ensuring objectivity and credibility of social, economic and environmental feasibility studies	• Limiting discretionary scope of public officials in the assessment through: ➢ delegating the assessment studies to external experts for social, economic and environmental feasibility studies or ➢ providing public officials with standardised assessment guidelines.

Phase	Policy objective	Policy options
		• If a consultancy firm is to assess the feasibility of the project, a due diligence check should be carried out prior to the selection and the selection should be the result of a fair and transparent procurement process. • Publishing the studies for which the public officials or the experts who carried out the studies will be held responsible. • Assuring a proper public consultation process associated with the relevant feasibility studies. • Keeping record of the assessment of the expert on their report for future reference and penalising those with alleged bias on future public investment project assessments. • Restricting room for undue influence on the experts through: ➢ sanctions on public officials who try to unduly influence the experts' studies ➢ carrying out internal concomitant audit and having external scrutiny.
	Limiting the influence of a potential private operator of a public-private partnership (PPP) or a concession	• Establishing standards for risk analysis that limit the room for public officials' discretion. • Publishing the studies and holding the persons who carried out the report responsible. • Concomitant, or real-time, audit. • Providing regulations and sanctions on the use of confidential information by public officials in legislation or in codes of conduct.
Planning and document design phase	Limiting the possibility of actors getting more information as an improper favour	• Digitalising information dissemination. • Establishing sound and comprehensive e-procurement systems for the complete dissemination of public procurement information.
	Ensuring that the design of the tender documents and specifications are not restrictive or tailored	• Creating an independent assessor commission/committee that will address bidders' concerns regarding the design of the tender. • Establishing a tender template limiting over-specification. • Involving experts groups or individuals to participate/help in the design of the tender documents and specifications to avoid restrictive specifications. • Ensuring that designs are complete and a technical commission undertakes site surveys.
Tendering phase	Ensuring that the winning bidder is the most qualified	• Use of integrity pacts so that the government officials and companies adhere to an ethical conduct during the procurement process. • Implementing an Integrity Framework. • Providing verbal debriefing by the government to aggrieved bidders to provide a better understanding of how the decision was reached, increasing understanding of the integrity involved in the process. • Inviting civil society to monitor that the process is carried out in a transparent manner (e.g. use of social witnesses). • Ensuring that a review and remedy system is in place that has the following characteristics: ➢ providing timely redress ➢ being effective in correcting (and thus preventing) instances of unlawfulness on the part of economic operators and/or contracting authorities ➢ being transparent and clear (i.e. understandable and easy to use by economic operators) ➢ being non-discriminatory and available to all the bidders wishing to participate in a specific contract award procedure. • Carrying out a parallel independent procurement evaluation to strengthen the detection of collusion, bid-rigging and favouring a supplier.

Phase	Policy objective	Policy options
	Assuring the integrity of bidding companies	• Requiring all bidders on a contract to produce independent certification as a pre-qualification requirement, or specifying the necessity to comply with certain standards to participate in the bidding process.
	Preventing bid rigging, collusion or the agree sharing of the market or future contracts in a public investment	• Using framework agreements created through competitive processes. • Using a pre-qualification system with the adequate technical, financial and qualitative criteria. The pre-qualification phase could include a background check on previous corruption offenses. • Using a two-envelope approach whereby the envelope containing the price is only considered following a technical evaluation.
	Ensuring that non-competitive procedures are not used without proper justification	• Clearly defining and disseminating legal requirements for the use of a non-competitive procedure. • Ensuring that all the justifications are properly presented and make them public. • Ensuring that this type of decision is not at the discretion of one individual. (e.g. Four-eyes Principle).
Implementation and contract management phase	Ensuring that there is not false reporting of invoices regarding costs associated to materials, labour hours and the qualifications of staff	• Publicising the estimated cost of the project and the final cost incurred to citizens through media and community groups. • Ensuring that profit and labour costs are separated from the rates for materials and equipment. • Increasing the functionalities of the e-procurement systems to cover the contract management phase and assure publication of relevant information in informational portals, including variations and reasons for the overrun.
	Ensuring that there is no delay in public investment due to corrupt practices	• Creating a website that monitors in real time the advancement of the public investment and how the advancement compares to the cost and time estimations. • Training community monitors to observe the progress and quality of the project.
Evaluation and audit phase	Ensuring that the entities (public or private) have an effective system of internal controls and financial reporting to monitor and identify irregularities.	• Application of the Committee of Sponsoring Organizations of the Treadway Commission (COSO) Framework on internal control. In particular, a few requirements stand out: ➢ There exists an appropriate application of robust risk-assessment procedures (e.g. Integrated Financial Risk Assessments). ➢ There is a clear procedure for dealing with unexpected risks, and mechanisms through which auditors can seek advice and recourse. ➢ An appropriate level of risk tolerance is established by entity management and communicated clearly to internal audit as well as to all staff of the entity. • Ensuring financial transactions are adequately identified and recorded (i.e. no “off the books” expenditures or non-identified accounts”). • Monitoring cash payments or payments in kind. • Ensuring that information is kept for sufficient periods and not prematurely destroyed (cfr. OECD, UNODC, World Bank, 2013). • Cross-referencing public expenditure information to detect irregularities within and across sectors.

Phase	Policy objective	Policy options
	Guaranteeing the independence of auditing institution or auditors	• Auditors are subject to specific code of conduct regarding their contacts with the contractors. • Excluding auditing institutions from future public investment audit if they are found in wrongdoings (e.g. receiving bribes, using false information in their reports). • Creating specialised oversight bodies to apply strict procedures for controlling costs and monitoring progress to ensure that projects were built on time and within budget. • There is control of the controllers – e.g. internal audit is overseen by external audit, which is in turn overseen by another objective external body.
	Providing adequate capacity and resources to provide timely and reliable audits	• Ensuring that audit functions are adequately resourced. • Establishing systems and databases on which auditees can draw reliable information about ongoing public works. • Promulgating technical skills to employ innovative technological advancements that ensure more reliable audits and data.



This document is an extract from the OECD report
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For more information please visit:
www.oecd.org/fr/gov/integrity-framework-for-public-investment-9789264251762-en.htm

Integrity Framework for Public Infrastructure

GOVintegrity@oecd.org
www.oecd.org/gov/ethics