



# OECD Integrity Review of MEXICO

HIGHLIGHTS

**TAKING A STRONGER  
STANCE AGAINST  
CORRUPTION**



# FOREWORD

By signing Mexico's General Law of the National Anticorruption System (NACS) into force on 18 July 2016, President Peña Nieto cleared the way for one of the key pillars of his administration's reform agenda and took a major step forward in the fight against corruption in Mexico. The Law brought to fruition a Constitutional amendment which embodied the NACS into the highest law of the land and signalled a decidedly tougher stance on a problem that has plagued the country for far too long.

If successful, Mexico's new National and Local Anti-corruption Systems have the potential to be "game-changers" for the country's anti-corruption agenda by addressing fragmentation in policies, improving co-ordination for more effective implementation, and ending impunity. The groundwork has been laid for success, with few other reforms enjoying such resounding support from citizens and civil society alike.

Passage of the General Law of the NACS - strengthened by a range of complementary laws and secondary policies - could not have come at a better time. Mexican citizens have roundly rejected what they perceive as a political and governance system with high levels of corruption that limits their opportunities for better lives and social mobility. Indeed, recent scandals and allegations against top political figures have made calls for change all the louder. In a 2015 Gallup Poll, over 70% of citizens reported they believed corruption to be widespread in government.

Plummeting confidence and high levels of corruption have, in turn, spilled over onto economic performance. The renowned annual competitiveness report by the Mexican Institute for Competitiveness (IMCO) estimates that 5% of Mexican GDP is lost to corruption yearly; other reports place losses closer to 9% of GDP.

While bleak, this picture demonstrates both the stakes and the challenges facing the NACS. The OECD Integrity Review of Mexico shows that if corruption is not tackled effectively, it will be impossible to effectively address many of the other dire challenges facing the country: slumping productivity and competitiveness, stubborn inequality, serious regional security issues and more. Corruption is unfortunately a culprit behind many of these obstacles.

While the new reforms deserve to be acknowledged, whether they lead to real change will depend on the extent and success of their implementation. While recognising progress, the present Review warns of the challenges of implementing such large-scale reforms. Important investments in awareness-raising, capacity-building, and institution-building must soon follow. Key steps include: providing ethics



committees with permanent staff and clearer mandates, further refining the Procurement Protocol to make it more feasible, clarifying conflict-of-interest policies, protecting the rights of those who report wrong-doing, and equipping internal controllers for disciplinary investigations and risk management.

To support the Government of Mexico in achieving successful implementation, the Review draws on international good practices and lessons learned from lead peer reviewers across the OECD including Australia, Belgium, Canada, Germany and the United States. The Review process has also included a series of workshops on the key elements of strong public sector integrity systems such as ethics, conflict of interest, control and audit, disciplinary systems, reporting mechanisms and whistle-blower protections. Moreover, the OECD is already working with several subnational governments (Coahuila, Mexico City, and Nuevo León) to support the implementation of Local Anti-corruption Systems.

The letter of the law must now translate into extensive institutional, behavioural and cultural change. While it will take time and doggedness to usher in changes, the new System must not fail. Looking ahead, the OECD remains a partner in supporting implementation and will monitor progress on the achievement of the policy recommendations of this report in 2018.



Angel Gurría  
OECD Secretary-General



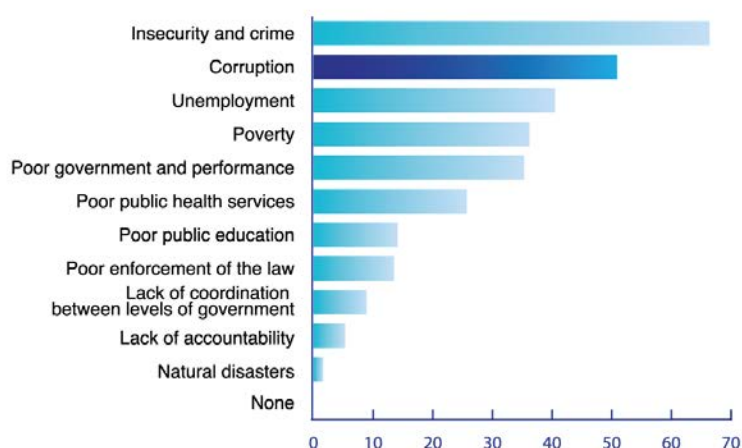


# INTEGRITY FOR INCLUSIVE GROWTH IN MEXICO

Mexico's newly established National Anti-corruption System (NACS)- and package of complementary reforms- mark a turning point in the country's approach to anti-corruption policies and aim to overcome some key shortcomings of the past by: (i) addressing fragmentation in policies and developing a more comprehensive and coherent approach to integrity; (ii) preventing "implementation gaps" by improving co-ordination both vertically and horizontally between levels of government, and particularly by bringing States under the remit of the System; (iii) strengthening enforcement mechanisms for investigating and sanctioning integrity breaches by public officials and firms under both administrative and criminal jurisdictions; and (iv) reinforcing oversight through greater transparency, expanded auditing powers and stronger involvement of civil society.

If successful, Mexico's new National and Local Anti-corruption Systems can contribute to addressing many of the key social and economic challenges facing Mexico today. In the first place, by more effectively tackling corruption, the reforms can restore trust in public institutions and contribute to more effective governance. Indeed, in 2015, corruption was cited as one of the top concerns of Mexican citizens, adversely affecting trust in political institutions and leaders (figure 1).

FIGURE 1. TOP RATED PROBLEMS BY MEXICAN CITIZENS, 2015  
SHARE OF RESPONDENTS, %



Source : Mexico's National Statistics Office (INEGI). Encuesta Nacional de Calidad e Impacto Gubernamental 2015

Second, corruption in Mexico has come at a high economic price for the country by increasing the costs of doing business, by deterring investment, and by hindering productivity. The Mexican Institute for Competitiveness' (IMCO) annual 2015 Report, for instance, estimates that corruption costs the national economy as much as 5% of its GDP.

Finally, the new anti-corruption reforms can contribute to addressing high levels of inequality in Mexico. Indeed, corruption aggravates social and economic disparities by allowing undue influence of special interests to capture the public policy cycle and reduce the responsiveness and effectiveness of these policies, especially on marginalised groups. Corruption also limits fair and equal access to public services, such as education and health which are so critical to providing opportunities for social mobility.

With a view to support the effective design and implementation of the new anti-corruption and integrity reforms in Mexico, and in line with international good practices and the OECD Recommendation on Public Integrity, the OECD Integrity Review of Mexico provides a set of concrete recommendations to further reinforce coherent and comprehensive integrity systems at both the national and regional levels, instil a culture of integrity, and ensure accountability through effective control and enforcement (see below figure).

FIGURE 2. OECD 2017 RECOMMENDATION OF THE COUNCIL ON PUBLIC INTEGRITY



# FOSTERING A COMPREHENSIVE AND COHERENT INTEGRITY SYSTEM

The experience of OECD countries shows that an effective, comprehensive and coherent public integrity system is fundamental to enhance integrity and to prevent and curb corruption. In particular, good practice indicates the value of clarifying institutional responsibilities across the public sector by establishing clear responsibilities, ensuring appropriate mandates and capacities to fulfil the given responsibilities, and promoting mechanisms for co-operation and coordination at the central level (across line ministries) as well as between federal and state levels of government.

The NACS attempts to address the aforementioned challenges by bringing together key players, so as to better align policies and cooperate for more effective implementation. Indeed, the NACS Co-ordination Committee is composed of the heads of the Ministry of Public Administration; the Supreme Audit Institution; the Federal Tribunal of Administrative Justice; the Specialised Anticorruption Prosecutor; the National Institute for Transparency, Access to Information and for the Protection of Personal Data; the Federal Judicial Council; and the President of the Citizen Participation Committee.

The Co-ordination Committee's Executive Secretariat is backed by the Executive Commission which will provide ongoing technical support to the Committee in the development and implementation of its Action Plan, as well as mandated activities such as management of the National Digital Portal which will combine key datasets on asset and interest declarations, sanctions, procurement, and complaints, among others (see figure 3).

The NACS General Law stipulates that the President of the Citizen Participation Committee must preside over the System's Co-ordination Committee and Governing Board, providing both leadership and oversight over implementation. As such, civil society is well placed to provide inputs and oversee (through an annual report) the activities of the NACS.

Finally, States are required to establish their own respective Local Anti-corruption Systems (LACS), thereby extending the reach of anti-corruption policies to where they are needed most, and helping to harmonise standards across the public sector. Survey results from Mexico's National Statistics Office underscore the need to focus anti-corruption efforts at sub-national levels (figure 4).



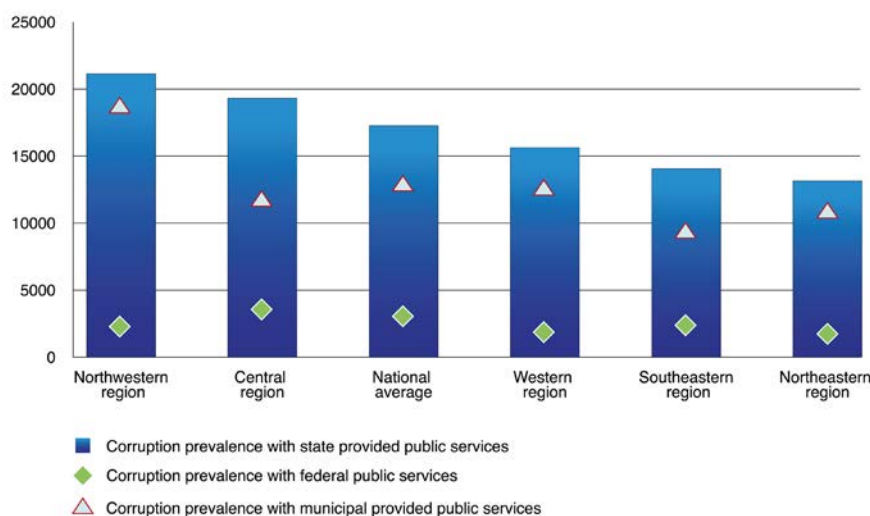
FIGURE 3. THE GOVERNANCE OF THE NATIONAL ANTI-CORRUPTION SYSTEM

## THE GOVERNANCE OF THE NATIONAL ANTI-CORRUPTION SYSTEM

NACS ENTITIES	LEAD AND MEMBERS	SUMMARY OF OBJECTIVES
Co-ordination Committee	<p>Presided by President of Citizen Participation Committee</p> <p>Members include: Heads of Ministry of Public Administration (SFP), Supreme Audit Institution (ASF), President of National Transparency Institute (INAI), Specialised Anti-corruption Prosecutor, Federal Tribunal of Administrative Justice (FTAJ) and Federal Judicial Council.</p>	<p>Develops national anti-corruption policies and monitors and evaluates progress in annual report; directs and oversees the work of the Executive Secretariat and Executive Commission</p>
Executive Secretariat to Co-ordination Committee	<p>Governing Board (Organo de gobierno) led by the President of the Citizens Committee and comprised of the members of the Co-ordination Committee</p> <p>Technical Secretary (Secretario Tecnico) elected by Governing Board members and tasked with managing the Executive Secretariat</p>	<p>Provides technical support to the organisation of the Co-ordination Committee, oversees the development and use of National Digital Platform</p>
Executive Commission to the Co-ordination Committee	<p>Technical Secretary and Citizen Participation Committee (with exception of this Committee's President)</p>	<p>Provides technical support in the implementation of Coordination Committee activities and responsibilities including annual report and coordination with Local Systems</p>
Citizen Participation Committee	<p>Presided by President of the Citizen Participation Committee, with one year term on rotating basis amongst five members.</p> <p>Total of five members, including the President, chosen by Selection Committee of 9 experts chosen by the Senate for a period of 3 years. Members must have made "an outstanding contribution to transparency, accountability and combating corruption"</p>	<p>Channels inputs from civil society through its Network into the work of the NACS and oversees progress and results. Can also conduct own programme of work (investigations, research, instruments and tools, etc.)</p>
Local Anti-corruption Systems	<p>In principle, mirror the structure of the NACS with analogous governance structure and procedures</p>	<p>In principle, mirror those of the NACS according to State-specific Action Plans</p>

Source: OECD based on NACS General Law

FIGURE 4. LOCAL ANTI-CORRUPTION SYSTEMS ADDRESS CORRUPTION WHERE MOST PREVALENT, INEGI 'CORRUPTION RATIO' BY LEVEL OF GOVERNMENT AND REGION



Note: Central Region (Distrito Federal, Guerrero, Hidalgo, México, Morelos, Puebla and Tlaxcala); Western Region (Aguascalientes, Colima, Guanajuato, Jalisco, Michoacán de Ocampo, Nayarit, Querétaro and Zacatecas); Southeastern Region (Campeche, Chiapas, Oaxaca, Quintana Roo, Tabasco, Veracruz de Ignacio de la Llave and Yucatán); Northwestern Region (Baja California, Baja California Sur, Chihuahua, Sinaloa and Sonora); Northeastern Region (Coahuila de Zaragoza, Durango, Nuevo León, San Luis Potosí and Tamaulipas).

Source: INEGI. Encuesta Nacional de Calidad e Impacto Gubernamental, 2015

## MAIN FINDINGS AND RECOMMENDATIONS FROM THE INTEGRITY REVIEW

- Mainstreaming integrity across the public sector, and overcoming traditional policy silos, will require that concrete anti-corruption policies be explicitly integrated into key national strategies, such as the National Development Plan, the National Security Strategy, the National Open Government and Digital Strategies, as well as continue being part of education plans such as the National School Culture Program.
- While the governance structure of the NACS, including the LACS, could substantially improve co-ordination across federal government (horizontally) and between levels of government (vertically), there is a risk that it will be an exclusively top-down approach, and therefore fail to attain greater buy-in and genuine ownership from individual organisations and officials. Requiring organisations to establish their own anti-corruption plans, based on their specific risk-mapping exercises, could help address this issue. The Ministry of Public Administration should also urgently establish a more ambitious strategy for promoting public sector integrity.
- A great deal of the value-added from NACS is in bringing together key players to better align policies and approaches and to co-operate in implementation. However, there are additional areas of the public sector that could contribute to integrity policies and which are not formally included in the institutional arrangements created by the system. Through dedicated working groups, the NACS Co-ordination Committee should make strong efforts to include additional ministries such as the

Ministries of Education, Presidency, as well entities such as the Tax Administration, the Senate and Chamber of Deputies Ethics Committees as well as the Mexican Electoral Institute. These are key players which should be involved in the design and implementation of anti-corruption policies.

- Inter-institutional coordination mechanisms for both vertical and horizontal collaboration will be more important than ever under the new institutional arrangements for anti-corruption. However, existing coordination mechanisms (such as the bilateral agreements established by the Ministry of Public Administration with States, the various Working Groups of the National Auditing System, or the Permanent Commission for State and Federal Controllers, CPCE-F) could be further strengthened, particularly with better monitoring. For instance, the NACS Co-ordination Committee may consider instituting Scoreboards measuring States' compliance with new policies in order to create positive competition amongst regions. At federal level, the Ministry of Public Administration's Specialized Unit for Ethics and Prevention of Conflicts of Interests (UEEPCI) could consider formalising a network of Ethics Units in line ministries and public entities to enable the exchange of good practices, discuss problems and develop capacities.





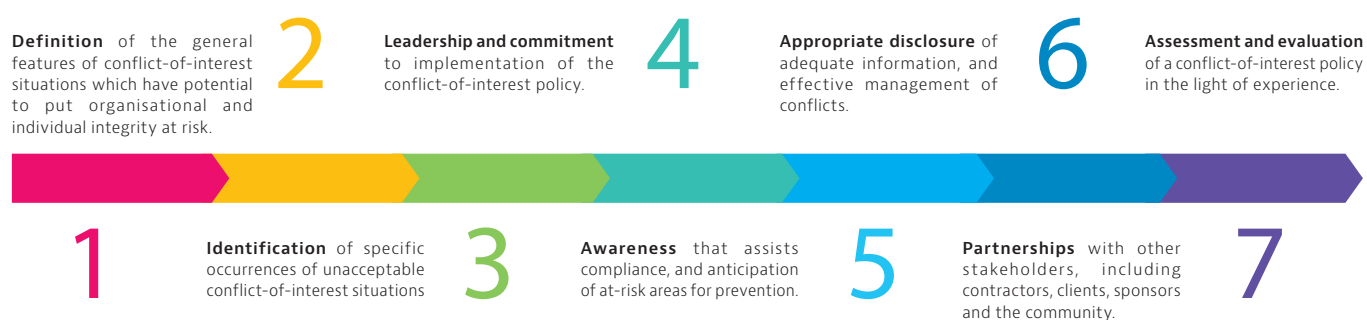
# CULTIVATING A CULTURE OF INTEGRITY: INSTILLING INTEGRITY VALUES AND MANAGING CONFLICT-OF-INTEREST

Cultivating a culture of integrity in the public sector requires the definition of common values to which all public officials should adhere and concrete standards of conduct that they need to apply in their daily work. Codes of conduct are essential, though not the only, policy instruments to establish and communicate shared integrity values across the public sector- including those such as impartiality, legality, transparency, honesty and professionalism.

However, upholding integrity values is a shared responsibility of all members of society- not just of government- and it is important that the private sector, civil society and individuals all recognise their key roles in respecting public integrity in their interactions with the public sector. As such, governments should work to raise awareness in society of the benefits of public integrity and reduce tolerance to violations of public integrity standards. Engaging the private sector and civil society through consultations for example, on the complementary benefits that all may yield from upholding integrity in business and in non-profit activities, is also considered good practice in OECD countries.

Setting values and standards of conduct for public officials in a code of ethics is particularly relevant in situations where a conflict-of-interest may arise. Indeed, while a conflict of interest situation is not corruption, per se, if not adequately identified and managed; such situations may lead to a higher risk of corruption. Ensuring that conflict-of-interest situations are adequately identified and managed is among the first steps towards safeguarding integrity in the public sector and upholding the public interest (see figure below 5 for building blocks of conflict-of-interest policy).

FIGURE 5. BUILDING BLOCKS OF CONFLICT-OF-INTEREST POLICY



Source: OECD (2003), *Managing Conflict of Interest in the Public Sector: OECD Guidelines and Country Experiences*, OECD, Paris [www.oecd.org/gov/ethics/conflict-of-interest](http://www.oecd.org/gov/ethics/conflict-of-interest)



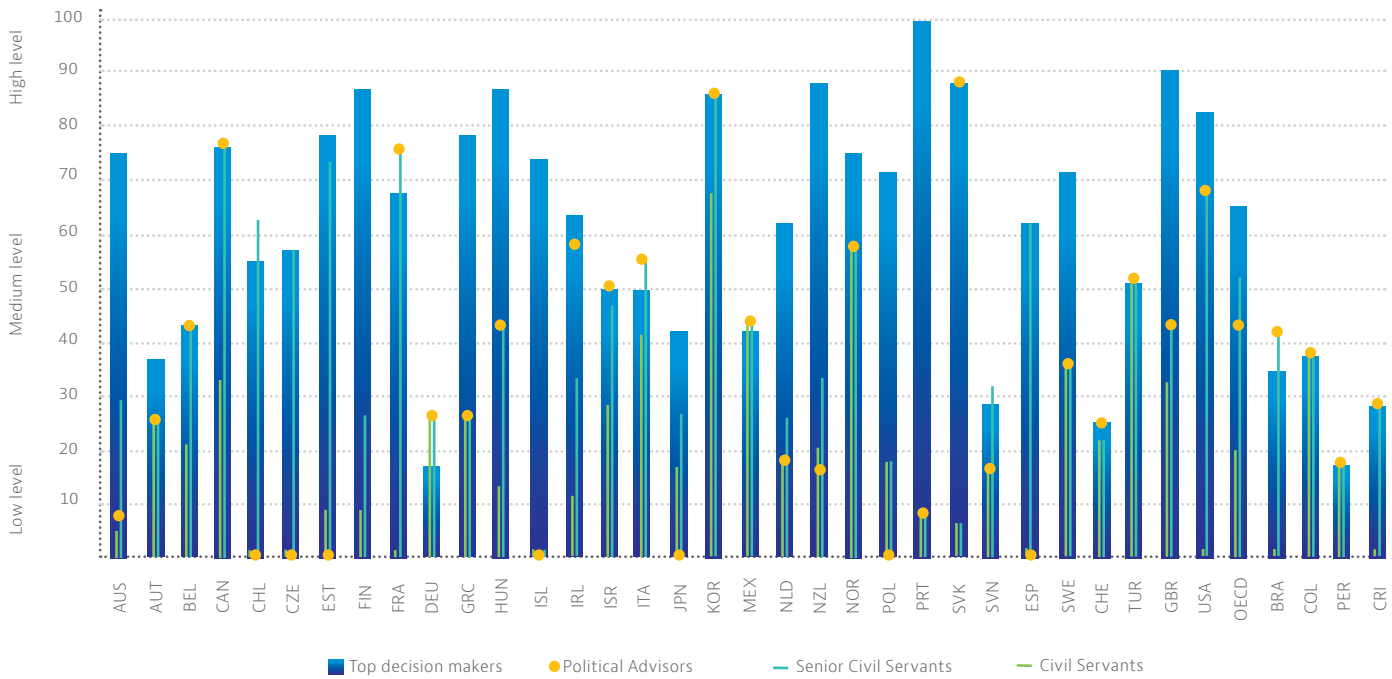




## MAIN FINDINGS AND RECOMMENDATIONS FROM THE INTEGRITY REVIEW

- Mexico's Ministry of Public Administration (SFP) has recently revamped Ethics Committees in each federal entity by clarifying their role with respect to the implementation of the Ethics Code and other Integrity Rules, which were updated in 2016 in the General Law of Administrative Responsibilities. However, Ethics Committees are continuing to emphasize a sanctioning role by hearing and deciding on potential violations of the code. In order to avoid duplication, ensure consistency across line ministries, and so as to not impede Committees' abilities to appropriately promote a culture of organisational integrity, such enforcement activities should instead remain in the hands of Responsibilities Units in internal control bodies and Ethics Committees should focus their efforts on preventative activities.
- Mexico's new Code of Ethics and related Integrity Rules provide for a comprehensive approach to reinforcing integrity as it includes general principles and values, as well as a set of desired and undesired behaviours. However, the Code should be complemented by user-friendly practical guidance- such as a "plain language" Manual- as to how such values and principles may be fulfilled. Furthermore, public servants should be more involved in the development of their organisation's specific Codes, not only to better tailor them to the specificities of their duties, but also to promote greater understanding and ultimately greater commitment (and compliance) from officials. The SFP could therefore provide guidance and support with respect to developing and implementing codes at organisational levels in a way to enhance behavioural change.
- The new tax, asset and interest disclosure standards included in the new General Law of Administrative Responsibilities will reinforce accountability and constitute an important commitment to restoring public trust in government. However, currently there is no strategy or guidelines for how such information will be verified and audited in a consistent manner across the government. The Government of Mexico should therefore adopt a risk-based approach to auditing these declarations, according to vulnerability to corruption and other "red flags" which may signal higher risk, and ensure information systems are linked to allow for the proper validation of information. This approach would not only make for a better use of resources, but has also proven to be more effective in identifying potential integrity breaches.

FIGURE 6. UNDER NEW LEGISLATION, THE LEVEL OF DISCLOSURE AND PUBLIC AVAILABILITY OF PRIVATE INTERESTS WITHIN THE EXECUTIVE BRANCH WILL INCREASE IN MEXICO, 2014

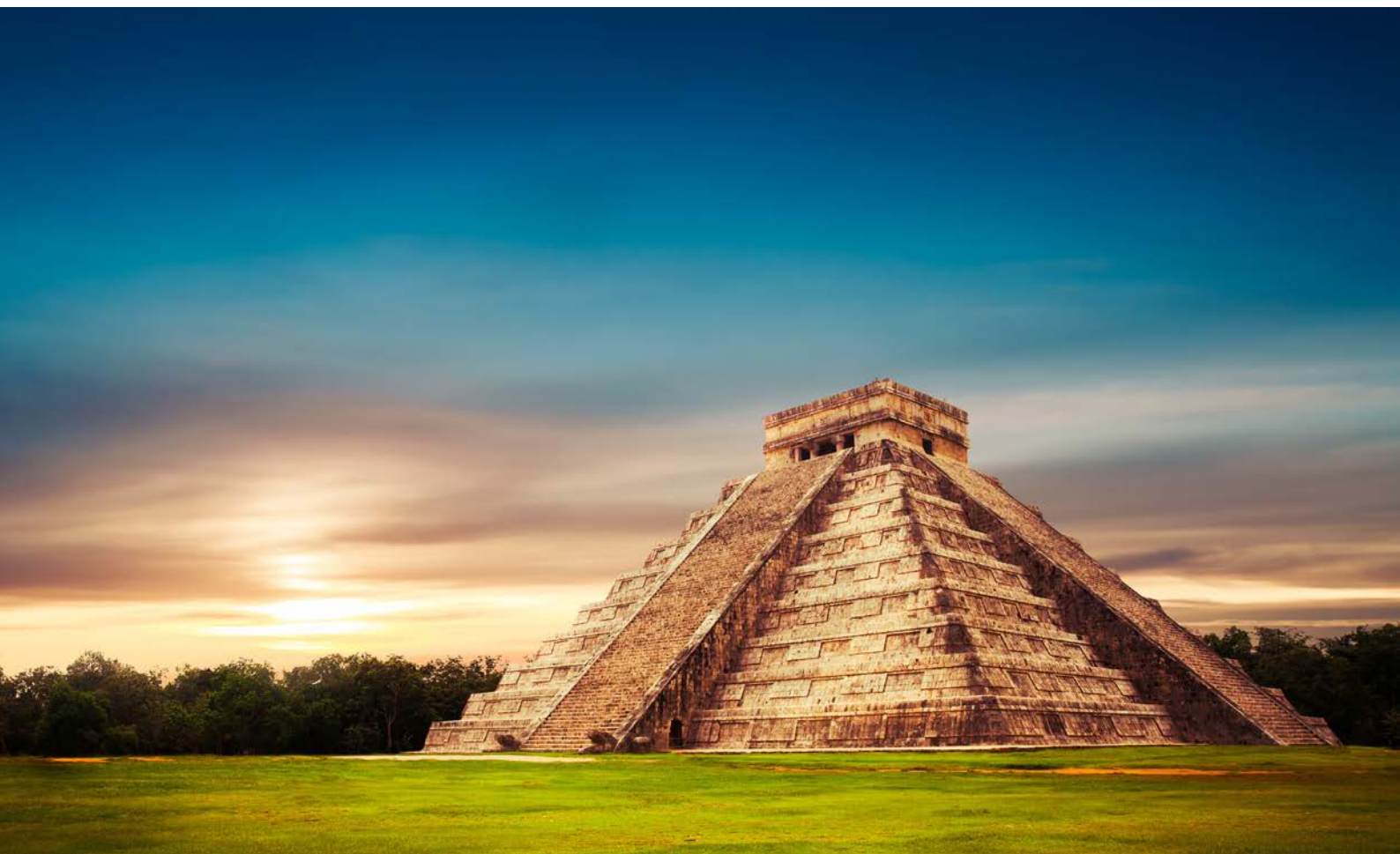


Source: OECD Survey on Management of Conflict of Interest, 2014

Note: Data for Mexico do not reflect new legal requirements which come into effect in July 2017



- Regarding conflict-of-interest, the SFP could also clearly communicate that, despite new declarations requirements, the onus remains on public officials to proactively report and resolve real, potential and apparent conflict-of-interest situations as they arise in conjunction with their management and internal control offices. The current conflict-of-interest policy and guidelines, which involve notification letters, could be complemented by more frequent reminders and reinforced by scaling-up trainings. The current conflict of interest policy and guidelines could also be better communicated across government through awareness-raising initiatives.
- Integrity is a shared responsibility and aims at changing behaviour. Beyond the government's efforts on public sector integrity, it should also strive to instil such values more broadly in society. To achieve this, behavioural approaches to “nudging” more ethical behaviour could be rolled out more broadly in Mexico. In addition, the NACS Action Plan could implement awareness campaigns and trainings that challenge citizens' acceptance of corruption, and educate the public on the attitude and tools to reject unethical behaviour. The Ministry of Public Administration and Ministry of Education should scale-up existing programmes to incorporate integrity values into school curricula and provide the necessary training to teachers.

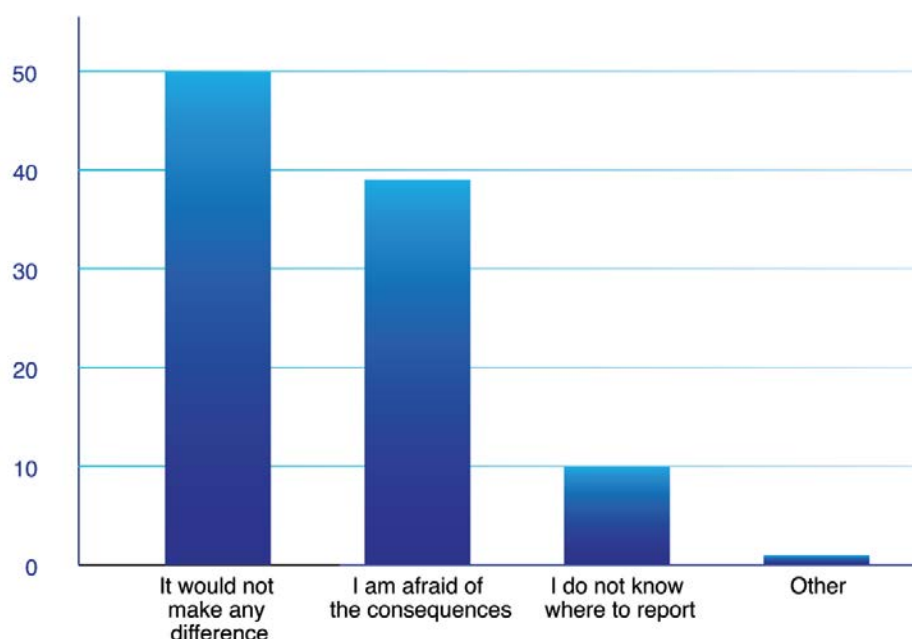




# PROTECTING WHISTLEBLOWERS: ENSURING SECURE CHANNELS AND PROTECTIONS FOR REPORTING CORRUPTION

Governments should encourage an open organisational culture where ethical dilemmas, public integrity concerns, and errors can be discussed freely, and where channels are available for reporting suspected violations of integrity standards in confidence. The protection of whistleblowers who disclose misconduct in the civil service should be a core component of any public sector integrity system, especially since typically whistleblowers who report misconduct often face intimidation, harassment, dismissal and violence by public officials, work colleagues, superiors or any other person acting on their behalf. Surveys of Mexican citizens demonstrate that fear of facing consequences is a top reason for not reporting corruption (figure 7).

FIGURE 7. TOP REASONS WHY MEXICAN CITIZENS DO NOT REPORT CORRUPTION, 2013



Source: TI Global Corruption Barometer 2013

## MAIN FINDINGS AND RECOMMENDATIONS FROM THE INTEGRITY REVIEW

- Mexico's whistleblowing framework provided by the General Law of Administrative Responsibilities is broad in scope and applies to all levels of government, including state-owned enterprises. However, there are too few protections against reprisals if the identity of the whistleblower is eventually disclosed, and it is highly uncertain how the protections that are currently provided by Mexican law would be applied. Mexico should specifically prohibit dismissal (or any other sanction) of whistleblowers without a valid cause, substantiated by due process, if the information reported can reasonably be believed to be true at the time of the disclosure (i.e. the complaint was deemed to have been made "in good faith").
- Mexico could also consider shifting the legal burden of proof on the employer to provide evidence





that any sanction exercised against a whistleblower following a disclosure of misconduct is not related to that disclosure. Lastly, the government should impose sanctions, following due process on those who exercise reprisals against whistleblowers, as well as provide remedies for those who were wrong-fully dismissed.

- Adopting comprehensive whistleblower laws lay the groundwork for an effective whistleblowing framework, but alone is insufficient to effectively promote a culture of openness and integrity that is supportive of those who take the risk to safeguard integrity by disclosing wrongdoing in the workplace. Mexico could consider instituting awareness-raising campaigns emphasising civil servants' primary obligation to be loyal to the public interest in order to give employees the confidence to discuss concerns or alleged wrongdoings, and help create a workplace guided by the tenets of integrity. Specifically-designed training on reporting misconduct targeted at higher-risk areas or positions within the public service are an important part of targeted awareness-raising campaigns.



# ENSURING A SOUND INTERNAL CONTROL AND RISK- MANAGEMENT FRAMEWORK

A sound and effective internal control and risk management framework is essential to safeguard integrity in public sector organisations since it ensures a control environment with clear objectives and provides a reasonable level of assurance of an organisation's efficiency, performance and compliance with laws and practices. To achieve this, international good practice shows that internal control and risk management should become an integral part of the daily operations, and not be perceived and implemented as a stand-alone, siloed exercise.

The Ministry of Public Administration is responsible for developing guidance and assistance to the Offices of Internal Control (Órganos Interno de Control, or OICs), located in line ministries and other public sector organisations, which are the responsible units for conducting audits, as well as monitoring the implementation of the internal control framework in government entities. The new Standard Model of Internal Control (Modelo Estándar de Control Interno, or MECI) was introduced by the recent "Acuerdo por el que se emiten las Disposiciones y el Manual Administrativo de Aplicación General en Materia de Control Interno". This framework is more closely aligned with the Integrated Framework on Internal Control in the Public Sector (Marco Integrado de Control Interno en el Sector Público, known as MICI), developed earlier by the Supreme Audit Institution, ASF, ensuring harmonisation between standards and criteria of external audit and internal audit.

The Ministry of Public Administration has also revamped the federal government's risk management framework, the Institutional Risk Management Model (Administración de Riesgos Institucionales, or ARI). Specifically, federal public entities are required to apply concrete methodological steps in order to produce a) the annual risk management matrix (Matriz de Administración de Riesgos), which gives a detailed picture of each one of the risks; b) the risk map which is the graphic illustration of the risk matrix and; c) the Work Programme of Risk Management (Programa de Trabajo de Administración de Riesgos, or PTAR) which is the implementation action plan.

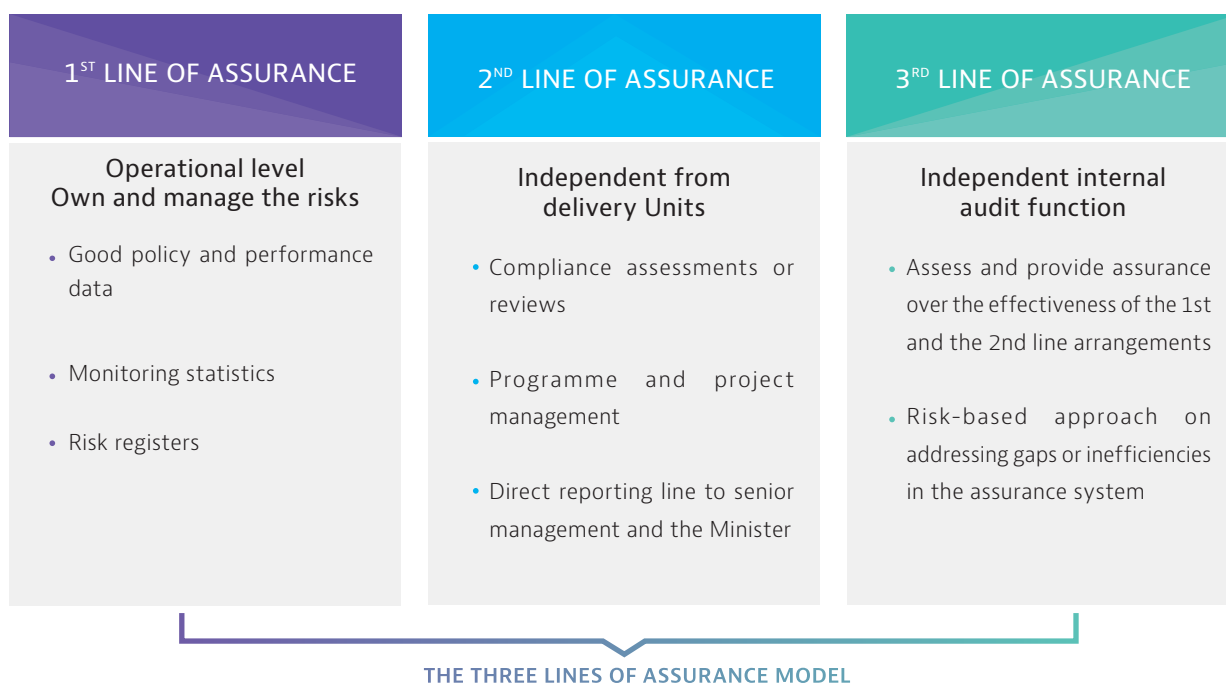
## MAIN FINDINGS AND CHALLENGES FROM THE INTEGRITY REVIEW

- The new standards for internal control place greater emphasis on integrity risks than previous models. However, the Review finds that such exercises are still largely seen as an administrative burden, are conducted as stand-alone exercises, and as such do not adequately consider all institutional integrity risks. Therefore, the Ministry of Public Administration should take a leadership role in accompanying these new policy reforms with an effective communications and capacity-building programme

around risk management generally, and with a specific module on risk management for fraud and corruption. Special attention must also be given to the methodological challenges of mapping and assessing the fraud and corruption risks. The effectiveness of this exercise could benefit by leveraging tools like data analytics.

- The Review further found that public entities’ internal control bodies could be substantially strengthened. While there was much variation across government, some bodies were under-resourced, faced job instability and high-turnover of staff, and lacked necessary skillsets. Therefore, more ambitious professionalization of internal control staff (i.e. certification and incorporation into the civil service regime for greater permanency) should be considered in order to ensure their independence, objectivity and effectiveness.
- Distinguishing between internal control and audit functions is also essential to strengthening the assurance role that IOCs are meant to play (see figure 8 below). Currently, internal control bodies play important roles in assisting with risk management and other internal control activities, while they should be focusing rather on auditing and evaluating. Building the capacities of line managers to carry out risk and internal control activities would permit for a clearer distinction. Furthermore, the Ministry of Public Administration may consider piloting audit and risk committees in an effort to underscore the importance of this higher-level assurance mechanism.

FIGURE 8. ALLOCATION OF ROLES BETWEEN THE CONTROL AND AUDIT STAKEHOLDERS ACCORDING TO THE THREE LINES OF DEFENCE/ASSURANCE MODEL



Source: adapted from Institute of Internal Auditors (IIA): Three Lines of Defence Model, Assurance Maps presentation-PIC EU-28 Conference 2015



# ENFORCING INTEGRITY: ENSURING AN EFFECTIVE ADMINISTRATIVE DISCIPLINARY REGIME FOR PUBLIC OFFICIALS

Enforcement measures- namely disciplinary systems and, when applicable, also mechanisms for the recovery of economic losses and damages- are the necessary “teeth” to any country’s integrity system and are a principal means by which governments can deter misconduct. If applied in a transparent, timely and fair manner, they can also legitimise the existence of governments’ integrity rules and frameworks, serving to strengthen them over time and helping to instil integrity values in individuals and organisations as day-to-day norms. Moreover, enforcement measures help signal to citizens that government is serious about upholding the public’s best interest and is worthy of their confidence and trust.





Public officials in Mexico can potentially be held liable for misconduct under five main types of regimes (political, administrative, criminal, civil and labour) depending on one's position in government and the type of fault or violation in question. The new reforms have changed the institutional arrangements concerning the criminal regime. Namely, Specialised Anti-corruption Prosecutors must be established at federal and state levels. These Specialised Prosecutors are tasked with addressing criminal offences concerning public sector officials and activities. At federal level, the position was established in 2014 via an Order (Acuerdo A/011/14 of the PGR). Appointments now require the approval of the national and state legislatures, a new measure aimed at increasing the independence of these positions.

The OECD Integrity Review focuses also on recent reforms to the administrative disciplinary regime. Until now, the Federal Law of Administrative Responsibilities for Public Servants (Ley Federal de Responsabilidades Administrativas de los Servidores Públicos, LFRASP) has been the law governing offences and sanctioning procedures at federal level. However, the recently approved General Law on

Administrative Responsibilities will replace this law, apply nationally and come into effect July of 2017. This new law establishes two different sanctioning procedures depending on the severity of the alleged offence: serious and less serious offences. For less serious offences, internal control bodies in individual line ministries or public sector organisations, as well as the senior management of the concerned line ministries/organisations, are responsible for investigating offences, processing disciplinary procedures, and imposing the relevant sanction. For serious offences however, under the new regime, Administrative Justice Tribunals are responsible for issuing sanctions. Under the new regime individuals and firms can be sanctioned. Moreover, Mexico's Supreme Audit Institution, and at local levels, state and municipal audit institutions, may now also investigate alleged offences and direct them to Tribunals if deemed serious.

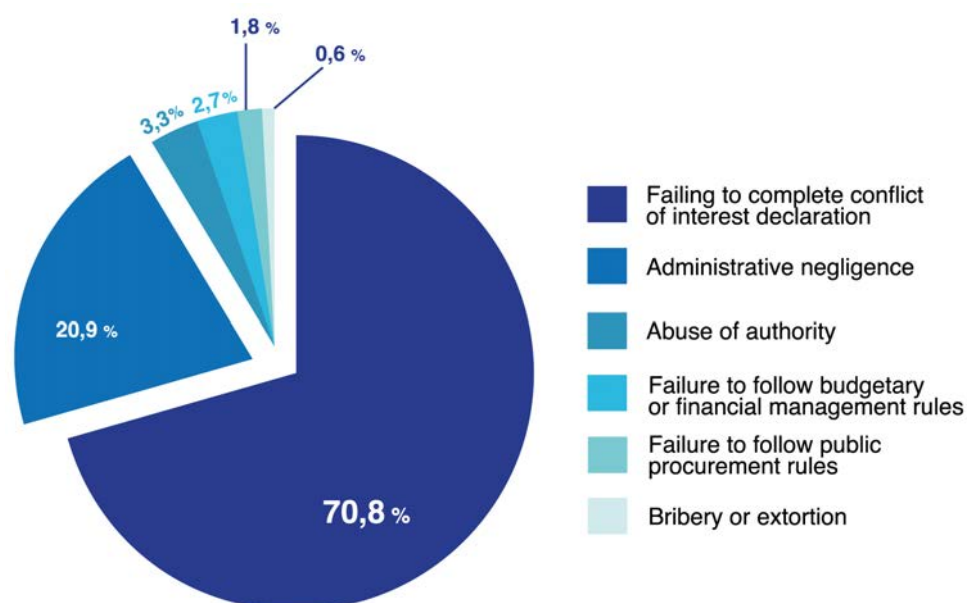




## MAIN FINDINGS AND RECOMMENDATIONS FROM THE INTEGRITY REVIEW

- The Review recognises the potential of the new regime to improve the timeliness and effectiveness of the administrative proceedings, however it forewarns of the need for better inter-institutional coordination and communication given the likely concurrency between serious administrative and criminal offences. Communication and co-ordination between Anti-corruption Prosecutors, Administrative Justice Tribunals and responsibilities units in internal control bodies will be particularly important at the outset of investigation in deciding how to take cases forward. At the time of conviction or exoneration, Mexico could consider automatic administrative offences and/or further administrative investigations to avoid fragmentation.
- While the new regime transfers sanctioning powers to Administrative Justice Tribunals for serious offences, the initial classification of the offence remains the responsibility of internal control bodies or other bodies conducting the preliminary investigation (such as the Supreme Audit Intuition). Given this remaining discretion- which is potentially high given the 14,000 administrative sanctions issued in 2014- there is a risk of inconsistencies across institutions or that some serious offences be classified as less serious. For instance, misuse of information for personal gain (a serious offence), could also be classified as mismanagement of information (a less serious offence). Existing data suggest potential imbalances in the classification of faults (see figure 9 below) that should be further evaluated. As such, the Review strongly encourages the NACS Co-ordination Committee to collect and release detailed

FIGURE 9. THE MAJORITY OF SANCTIONS ARE FOR FAILURE TO SUBMIT ASSET DECLARATIONS ACCORDING TO DISAGGREGATED FEDERAL SANCTION STATISTICS BY TYPE OF FAULT, MEXICO 2014

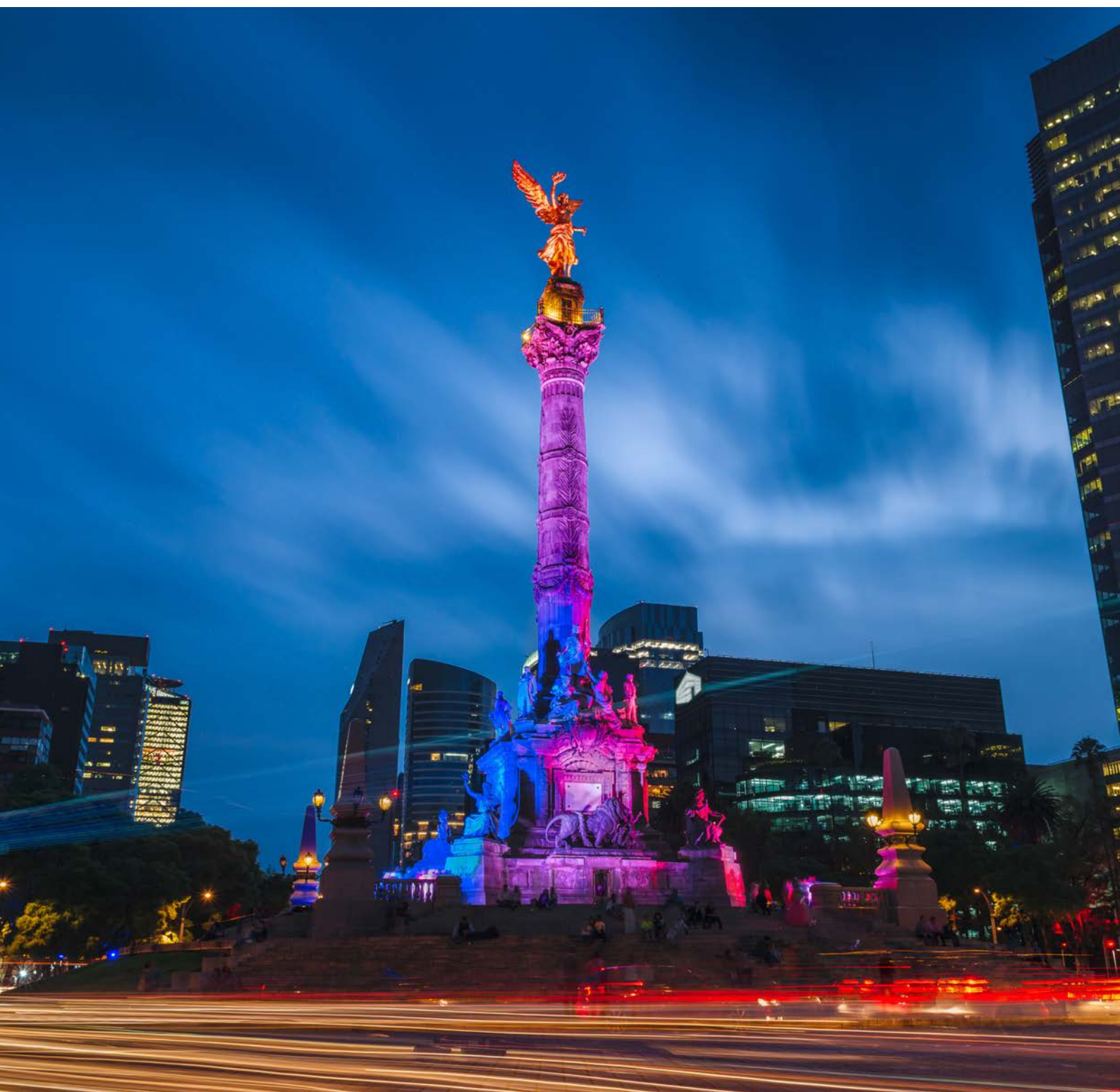


Notes: Data here refer to initial sanctions and do not consider subsequent overturned appeals. These data refer to the federal level only ( states and municipalities are excluded).

Source: Based on information provided by the Ministry of Public Administration, Mexico

performance data on the administrative disciplinary regime so as to assess potential weaknesses in the application of the new system and hold internal control bodies across government accountable.

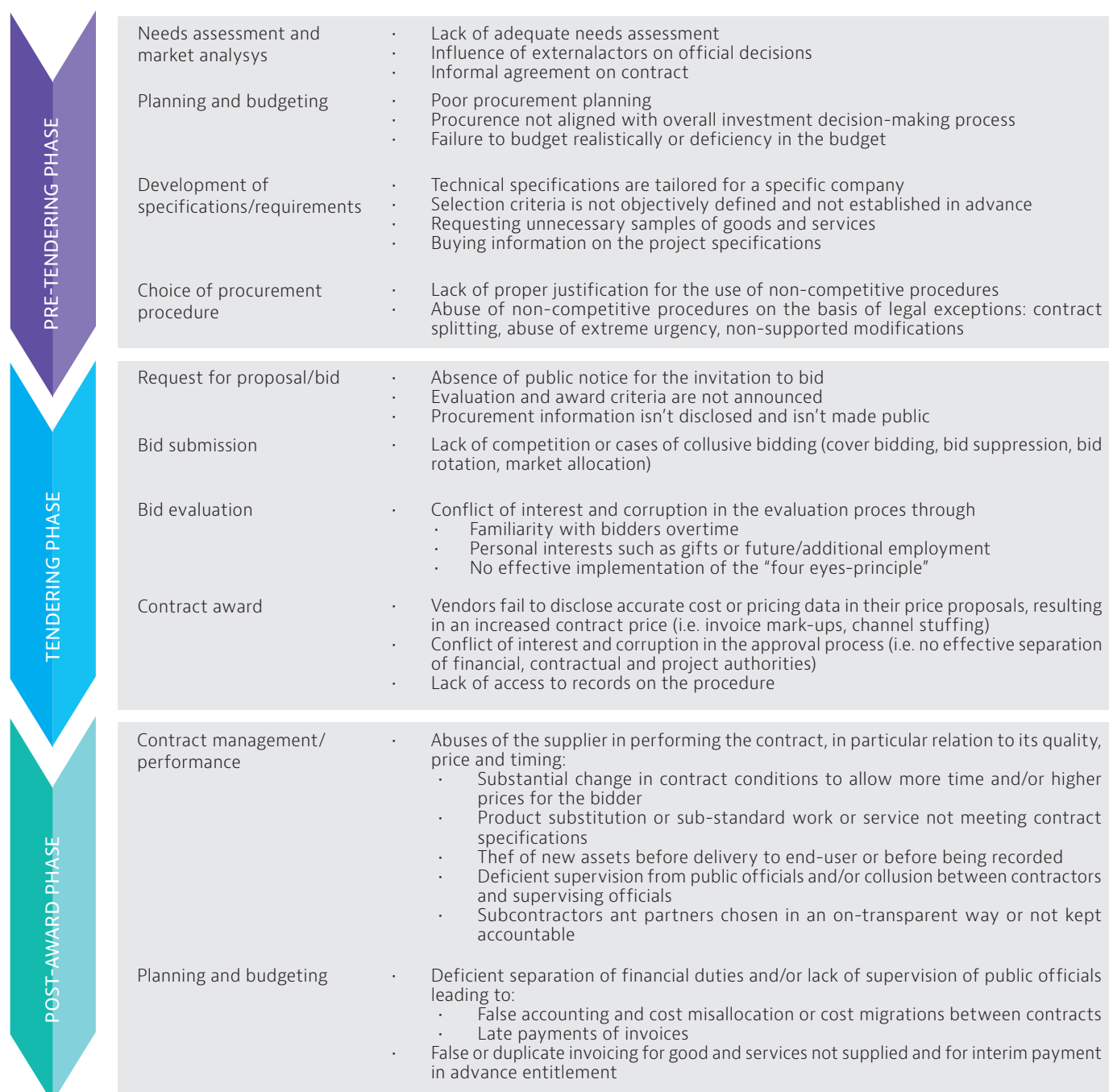
- Given the new powers attributed to Magistrates and staff of Administrative Justice Tribunals, the OECD further recommends the objective and transparent assignment of Magistrates to cases; training and adequate remuneration; high-performing internal judiciary committees to audit decisions and investigate conflict-of-interest and, if necessary, discipline judges and staff. Greater transparency of assets and potential conflict of interest could also improve fairness and legitimacy of the new regime.



# CLEAN AND EFFICIENT PUBLIC PROCUREMENT IN MEXICO

Public procurement is particularly vulnerable to corruption due to the high complexity of activities, the close interaction between the public and private sectors, and the large volume of transactions. Every year, governments spend large sums of public money on procurement contracts. In 2013, Mexico spent about 5.2% of its GDP and 21.2% of government expenditure on public procurement. Unethical practices can occur in all phases of the public procurement cycle, however, each phase may be prone to specific kinds of integrity risks (see Figure 10 below).

FIGURE 10. CORRUPTION RISKS ASSOCIATED WITH THE DIFFERENT PHASES OF THE PUBLIC PROCUREMENT CYCLE



Mexico's federal government has undergone a series of reforms aimed at strengthening its public integrity system, including in the area of public procurement, such as:

- A protocol of conduct for public servants in public procurement, and on the granting and extension of licenses, permits, authorisations and concessions (Acuerdo por el que se expide el protocolo de actuación en materia de contrataciones públicas, otorgamiento y prorrogó de licencias, permisos, autorizaciones y concesiones). This is included in the General Law on Administrative Responsibilities (Ley General de Responsabilidades Administrativas).
- A registry of federal public administration public servants involved in public procurement processes (Registro de servidores públicos de la Administración Pública Federal que intervienen en procedimientos de contrataciones públicas), including classification according to their level of responsibility and their certification.
- An online publication of sanctioned suppliers, specifying the reason of the sanction.
- Increased collaboration with the private sector to reinforce transparency in procurement procedures and decision making, and to reinforce integrity through the involvement of citizens in the identification of vulnerable processes and procedures, and the development of co-operation agreements with chambers of commerce and civil society organisations.

While these are positive steps forward, the Review identified several measures to improve the integrity of the public procurement system and ensure the efficiency and value-for-money attained from procurement spending.

## MAIN FINDINGS AND RECOMMENDATIONS FROM THE INTEGRITY REVIEW

Mexico should ensure that specific provisions related to public procurement are being included in the codes of individual line ministries, which are required to update their own organisation's codes according to the new Ethics Code and Rules of Integrity. The Public Procurement Protocol should be revised. While it is an essential step towards ensuring a risk-sensitive approach to managing conflict-of-interest, there are currently several aspects of the protocol, such as recording calls and meetings, that weaken its potential to achieve the desired impact and that could even lead to undesired consequences such as low engagement and motivation by public officials and risk-aversion in public procurement procedures. The Ministry of Public Administration could instead focus on improving and scaling-up guidance on how public procurement officials can and are expected to react when faced with typical ethical dilemmas and conflict-of-interest situations that could arise in public procurement processes.

While the Public Procurement Registry is a positive first step to identifying which officials are involved in the public procurement process, Mexico should now leverage this registry to better identify integrity risks



in this area. The Review finds that officials listed in the Registry should have access to tailored integrity programmes and should get specific certifications, aligned with their responsibilities.

Ensuring accountability throughout the public procurement cycle is key and a large component of this rests on having effective complaints and sanctioning procedures. As such, Mexico could consider strengthening the timeliness and effectiveness of its review and remedies system in order to ensure that procurement decisions can be contested and possible corruption cases denounced. Moreover, Mexico needs to ensure that it publishes only one list of sanctioned suppliers to avoid confusion.

In addition to the development of its e-procurement system CompraNet, Mexico has committed itself to implementing the Open Contracting Data Standard (developed by the Open Government Partnership, OGP), in the area of public procurement. While a few major projects (namely Mexico City's new international Airport) have pioneered open data, it remains the exception rather than the rule. Mexico would for example need to continue exploring the implementation of open contracting in health and pharmaceutical procurement. The integration between the future national e-platform of the NACS with CompraNet and Open Contracting platforms should be ensured in order to enhance then transparency and the disclosure of information around public procurement.

Working with external stakeholders such as private companies and civil society is critical to preserve integrity of the public procurement system. Against this background, Mexico needs to ensure the proper implementation of the joint actions included in the cooperation agreements with the chambers of commerce and civil society organisations. It should also clarify and promote the use of statements of integrity such as the Manifest (Manifiesto que podran formular los particulares en los procedimientos de contrataciones públicas, de otorgamiento y prorroga de licencias, permisos, autorizaciones y concesiones).





# MEXICO'S PLAN OF ACTION TO IMPLEMENT OECD INTEGRITY REVIEW RECOMMENDATIONS

In order to advance in the implementation of recommendations proposed in the OECD Integrity Review, the OECD and Mexico's Ministry of Public Administration (SFP) have jointly agreed upon an Action Plan with four central themes as immediate priorities:

- Strengthening institutional arrangements for coherence and effective co-operation.
- Cultivating a culture of integrity in the public sector and society.
- Strengthening the public sector's lines of defence against corruption.
- Enforcing the integrity framework for deterrence and greater trust in government.

Each of these priority areas includes one or more Proposals for Action, with concrete initiatives which have been assigned to responsible institutions in the context of the new National Anti-corruption System institutional architecture. The Action Plan is found in the Integrity Review study itself.

This Action Plan constitutes a road map for the Government of Mexico to concentrate its efforts and envision a comprehensive agenda to further integrity. Indeed, Action Plans have proven to be helpful to governments in prioritising key reform objectives, sequencing and planning resources, and in communicating with stakeholders.

Furthermore, the Action Plan will form the basis for a subsequent OECD Progress Report, due to be published in the Spring of 2018, which will take stock of achievements made in implementing reforms, including OECD recommendations, and identify any potential barriers to implementation.

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## WHAT ARE INTEGRITY REVIEWS?

OECD Integrity Reviews help policy makers improve policies, adopt good practices and implement established principles and standards. They compare experiences and good practices from both OECD member and non-member countries. Integrity Reviews propose actions to governments to enhance their public integrity system based on a comprehensive analysis of their structures, instruments and processes to promote a cleaner public sector. Particular attention is directed to evaluate the effectiveness of their integrity management systems and detail alternative options to address “at risk” areas. During the review process the OECD secretariat organises workshops and policy discussions with experts and officials from peer institutions in OECD member countries as well as in the OECD Public Governance Committee and its affiliated networks.

### FOR MORE INFORMATION

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