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# The use of Public Procurement Managing risks, fostering integrity and achieving results the perspective of the OECD

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# Agenda

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- The OECD
- Public Procurement matters
- The OECD approach to Public Procurement
- The OECD Recommendation on Public Procurement
- Support of SME's
- OECD Guidelines for fighting bid rigging
- The OECD Integrity Framework



# THE OECD WHO WE ARE



## The OECD...

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- ...is the global organisation that drives **better policies for better lives**
- ...analyses, measures and compares experiences and policies to give advice that helps **raise living standards** globally
- ...aims for a **stronger, cleaner, fairer world** through efforts such as..
  - Restoring confidence and **financial stability**
  - Tackling **climate change**
  - Fighting international **tax evasion** and **corruption**

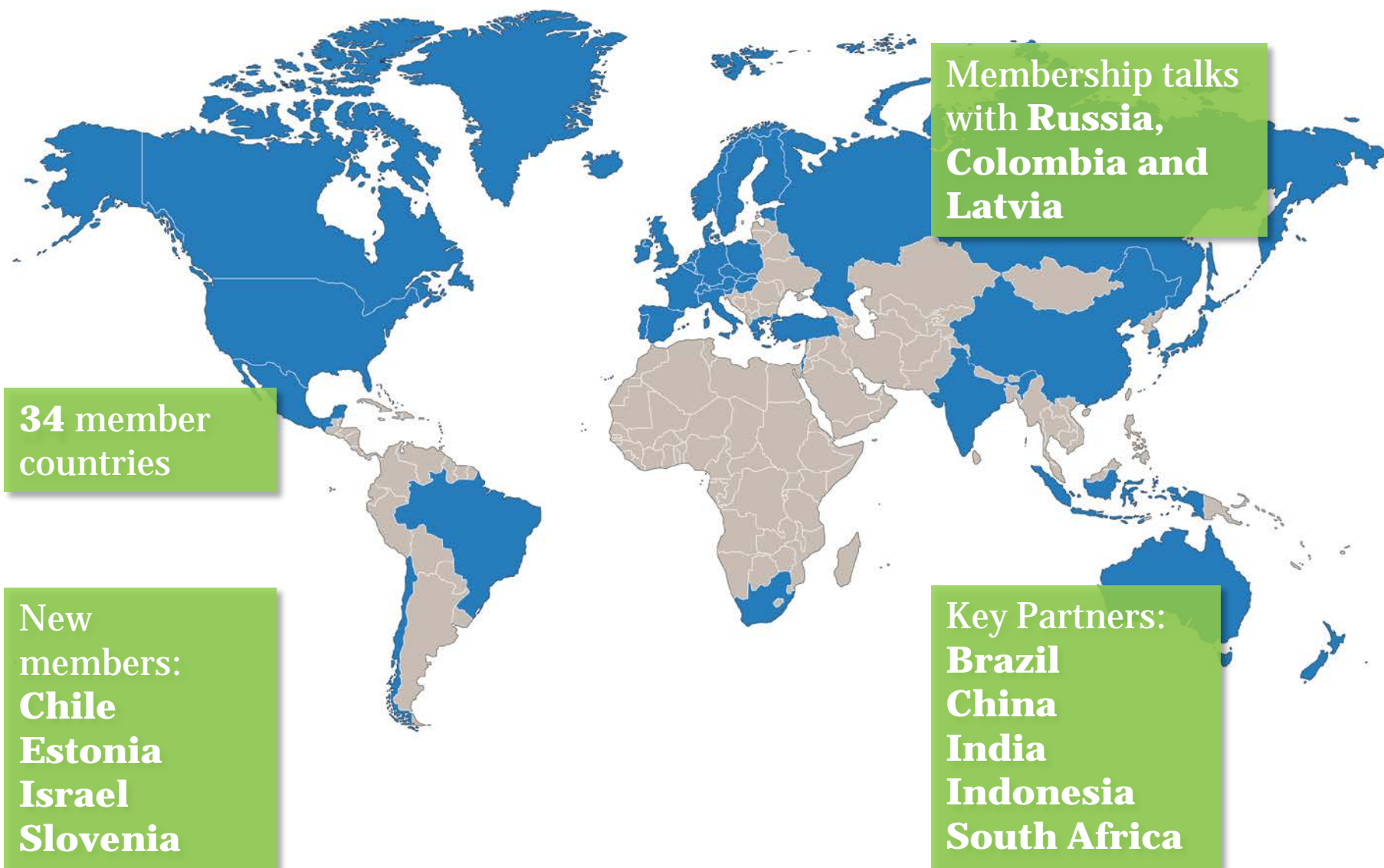


## Fast facts

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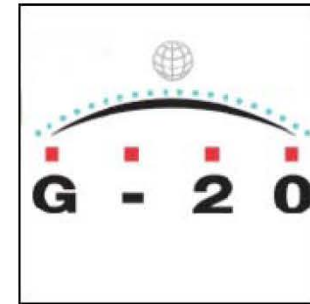
- Established: **1961**
- Headquarters: **Paris**
- OECD Centres: **Berlin, Mexico City, Tokyo, Washington**
- Members: **34**
- Secretary-General: **Angel Gurría (Mexico)**
- Secretariat staff: **2 500**
- Annual budget: **347 € million (2012)**
- Nearly **300 expert committees** and working groups with participation of **+100 countries**

# OECD's global reach





## Part of a global community



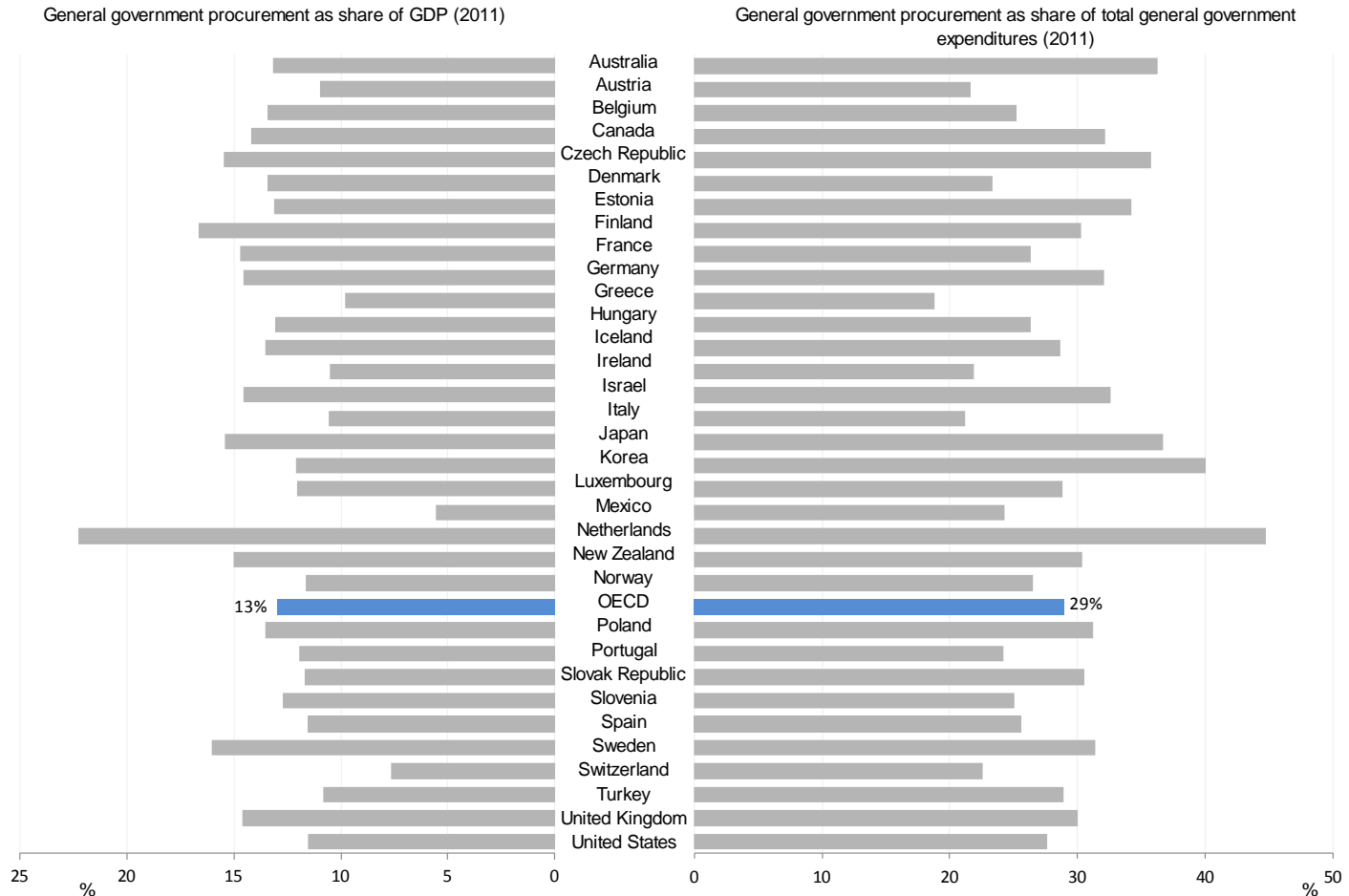


# PUBLIC PROCUREMENT MATTERS





# Public Procurement matters...





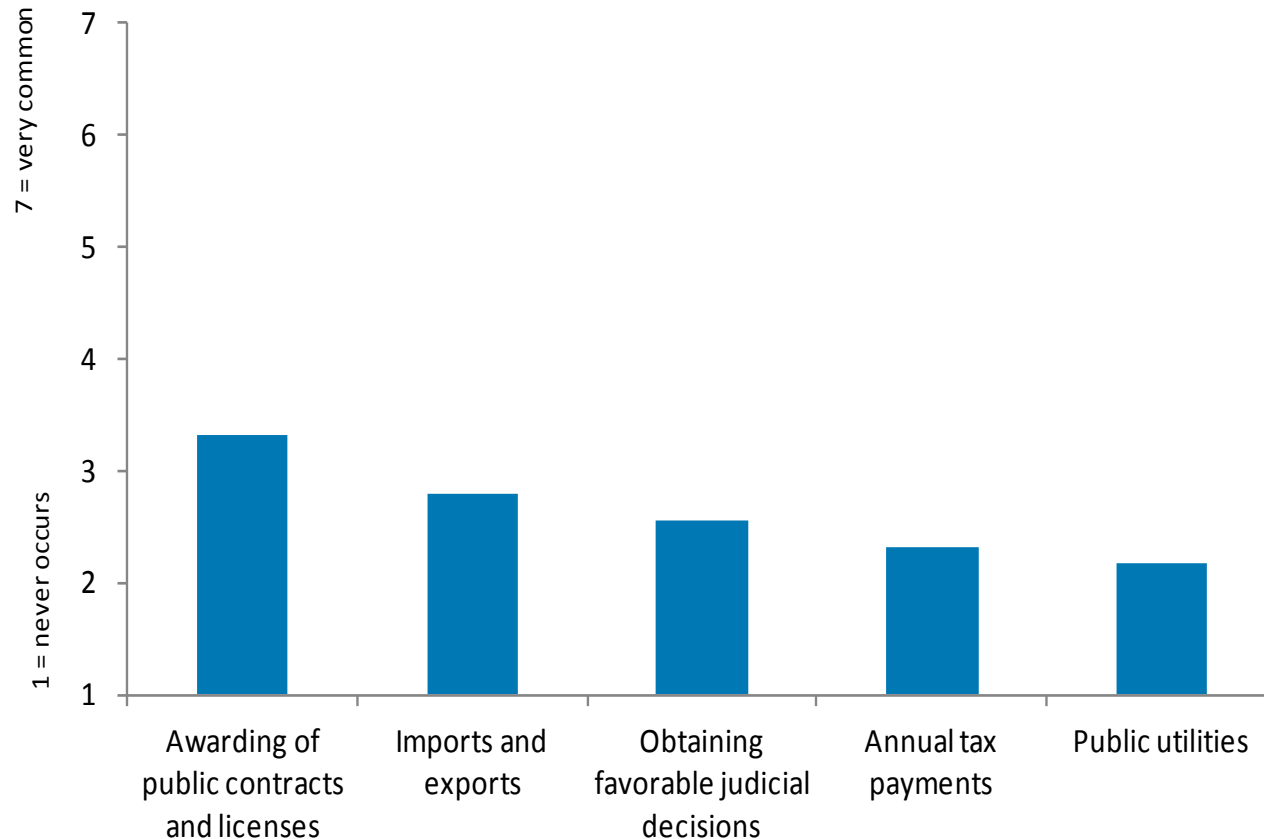
## Public Procurement matters...

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- Public Procurement is a major economic activity
- It stands as a crucial pillar of strategic governance for any government body;
- It is also a high-risk area due to the close interaction between private and public spheres
- Governments face the challenge of ensuring that different priorities are clear, work together and overlaps or conflicts are avoided.



## Public procurement is the government activity with the highest perception of bribery risk



Source: 2012-2013 Executive Opinion Survey from the World Economic Forum for the Global Competitiveness Report



## The risks of collusion (bid rigging)

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Public procurement accounts for approx 13% of GDP in OECD countries (15-20% in EU)

Bid rigging can raise prices significantly



**POTENTIAL DAMAGES FOR TAX PAYERS  
CAN BE SIGNIFICANT !!**



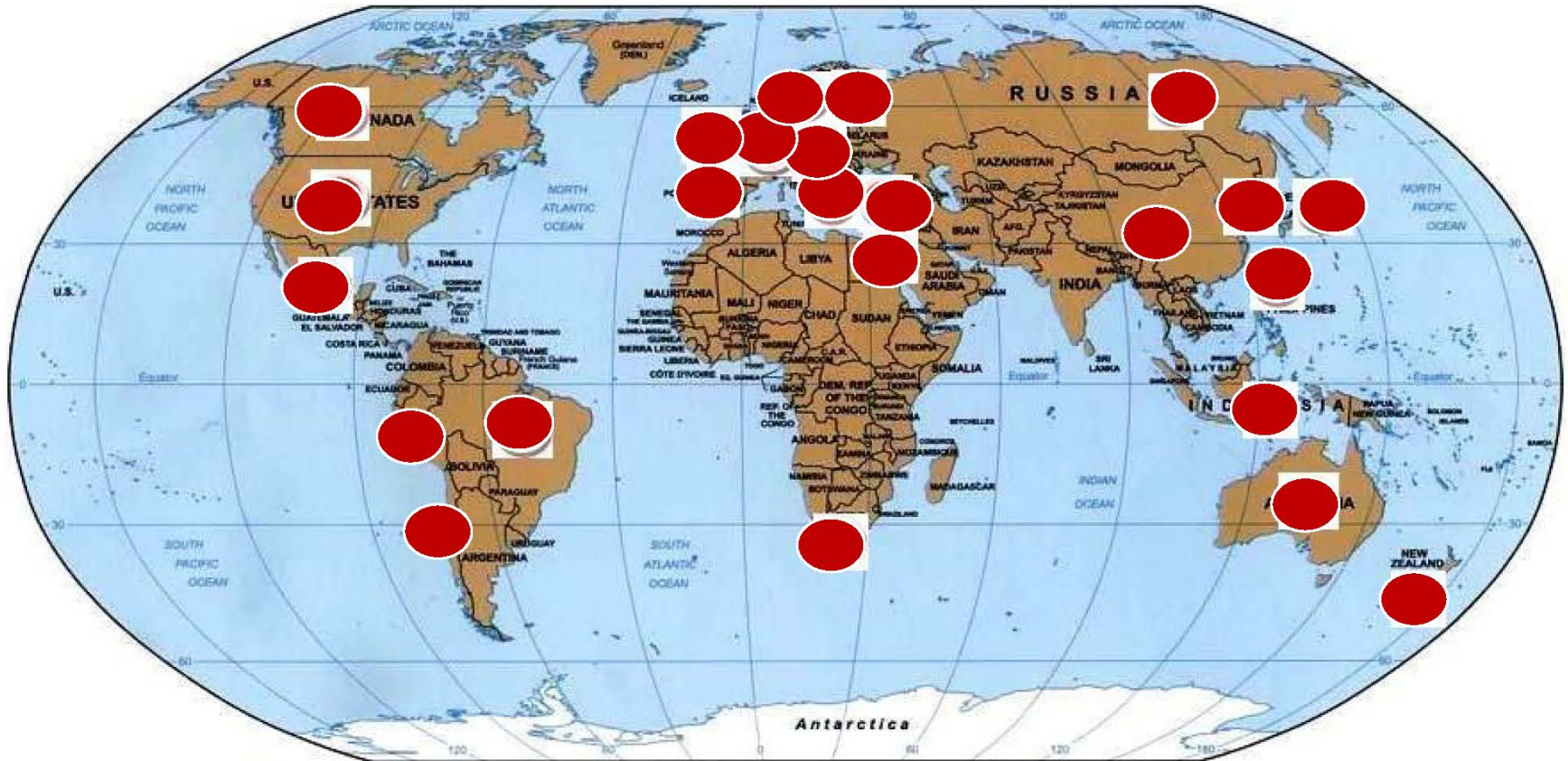
## Surveys of cartel overcharges

Reference	Number of Cartels	Mean Overcharge (percent)	Median Overcharge (percent)
Cohen and Scheffman (1989)	5-7	7.7-10.8	7.8-14.0
Werden (2003)	13	21	18
Posner (2001)	12	49	38
Levenstein and Suslow (2002)	22	43	44.5
Griffin (1989)	38	46	44
OECD (2003), excluding peaks	12	15.75	12.75
<b>Weighted average</b>	<b>102-104</b>	<b>36.7</b>	<b>34.6</b>

Source: Connor and Bolotova (2006)



# Bid rigging cases from around the world





# THE OECD APPROACH TO PUBLIC PROCUREMENT



## Main OECD instruments on public procurement and integrity

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- Recommendation on Enhancing Integrity in Public Procurement (2008)
- OECD Guidelines (2009) and Recommendation (2012) for Fighting Bid Rigging in Public Procurement
- Guidelines for Managing Conflict of Interest in the Public Service (2003)
- Principles for Transparency and Integrity in Lobbying (2010)
- G20 High Level Principles on Asset Disclosure for Public Officials (2011); Guiding Principles for Legislation on the Protection of Whistleblowers (2012) and against Solicitation (2013)





# THE OECD RECOMMENDATION ON PUBLIC PROCUREMENT



# OECD 2008 Recommendation on Enhancing Integrity in Public Procurement

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The core pillars:

- Transparency;
- Good management;
- Prevention of misconduct; and
- Control.



## Main findings from the OECD work in Public Procurement

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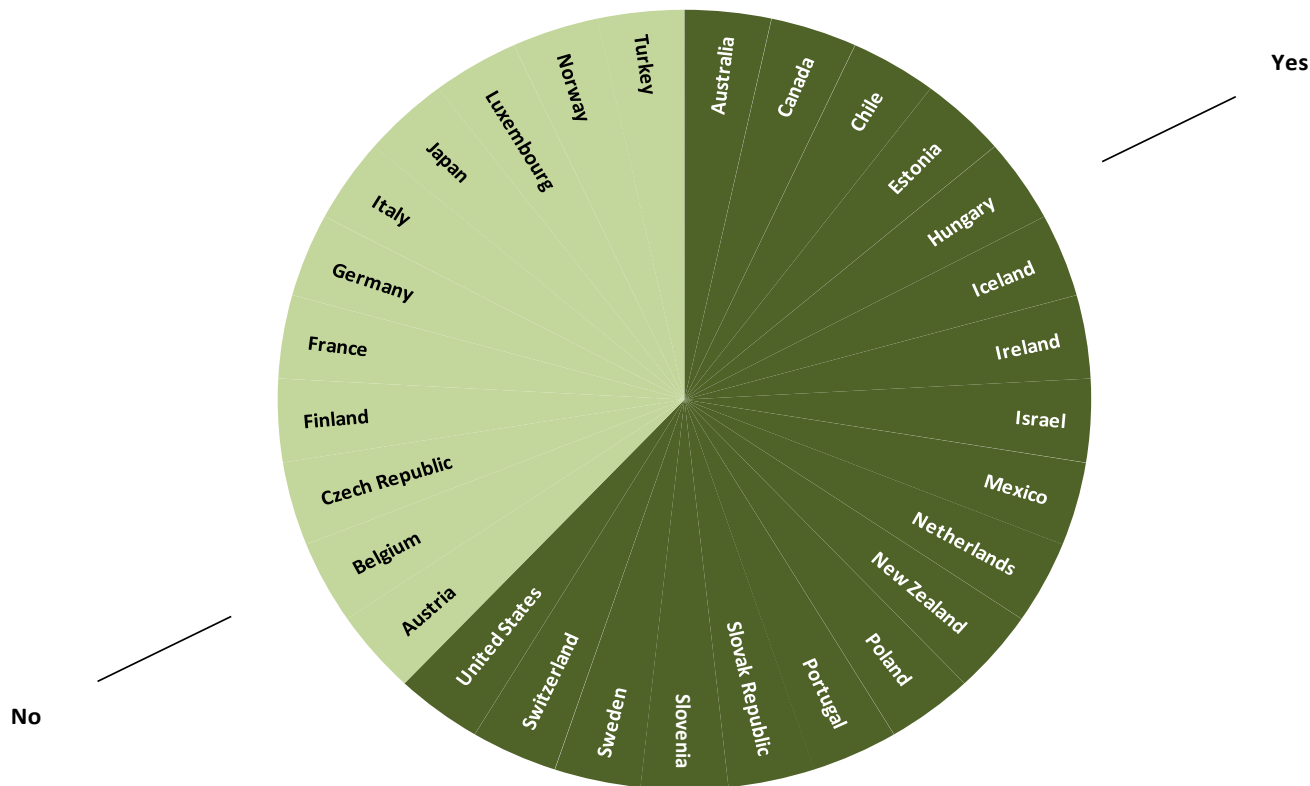
The OECD's experience in working with public procurement shows that a sound procurement system includes:

- a) procurement rules and procedures that are simple, clear and ensure access to procurement opportunities;
- b) effective institutions to conduct procurement procedures and conclude, manage and monitor public contracts;
- c) appropriate electronic tools;
- d) suitable, in numbers and skills, human resources to plan and carry out procurement processes; and
- e) competent contract management.



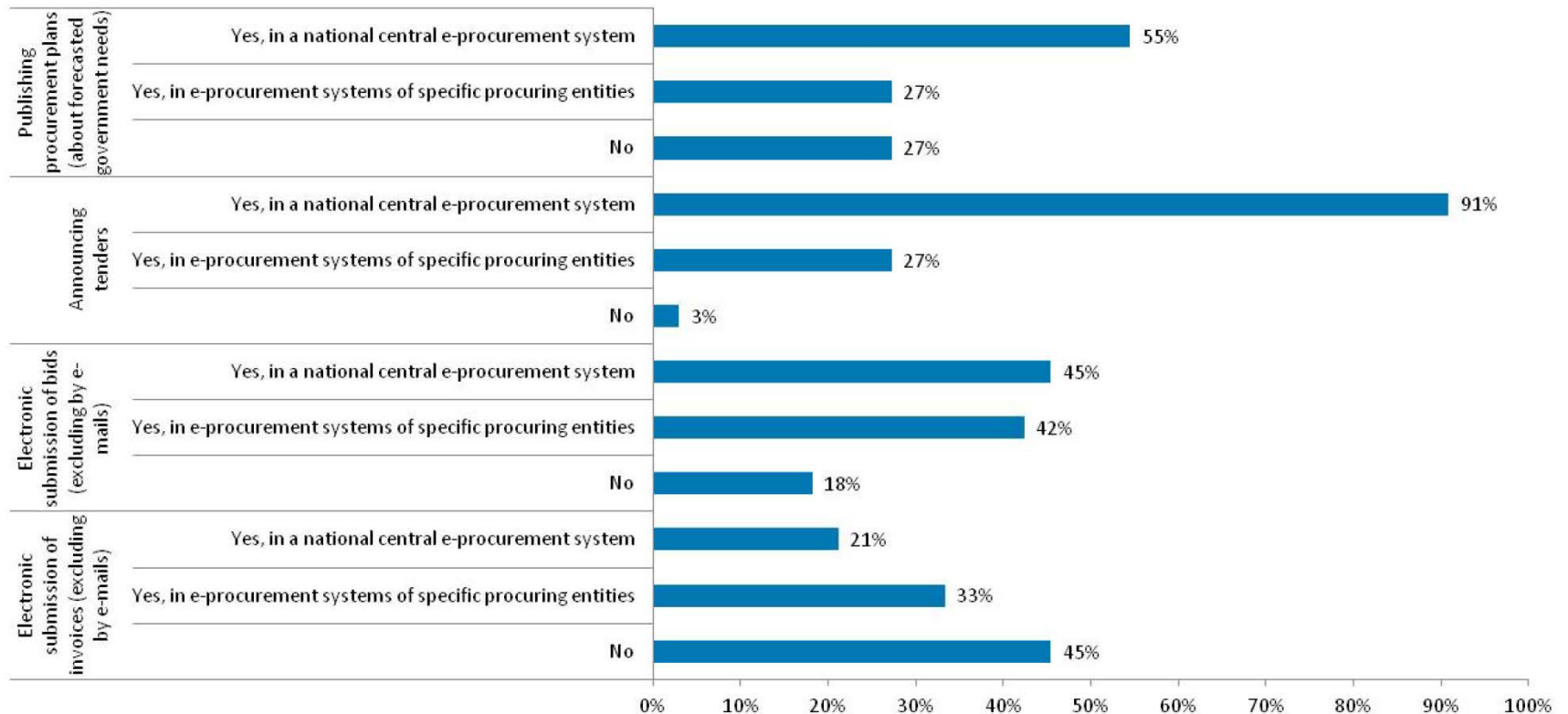
# Lack of professionalisation of procurement workforce puts management of funds at risk

- Over 1/3 of OECD countries do not recognise procurement as a specific profession





# E-procurement systems are not fully developed

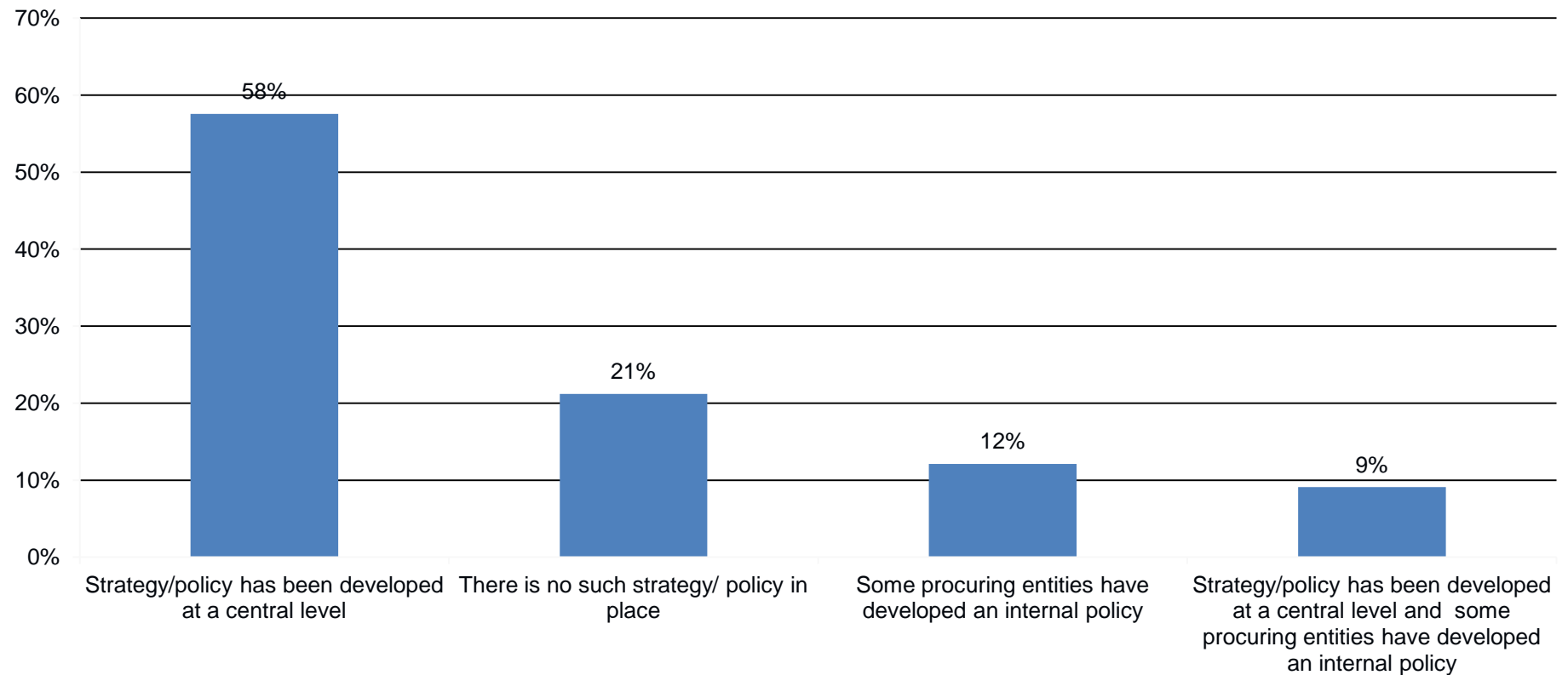


Source: OECD Public Procurement survey 2012

Percentage of responding OECD countries.



## Using procurement to support secondary policy objectives may increase integrity risks



Source: OECD 2012 Survey on Public Procurement



# Procurement risks





## Risks pre-tendering (1)

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### Needs assessment

- Lack of adequate needs assessment
- Influence of external actors or consultants on officials' decisions
- Informal agreement on contract

### Planning and budgeting

- Deficient cases, poor procurement planning
- Procurements not aligned with overall investment decision-making process
- Failure to budget realistically or deficiency in the budget





## Risks pre-tendering (2)

### Definition of requirements

- Technical specifications that are tailored for one company, too vague or not based on performance requirements
- Selection and award criteria that are not clearly and objectively defined, not established in advance
- Licensing of unqualified companies, for example through the provision of fraudulent tests or quality assurance certificates
- Requesting samples of goods that could influence objectivity
- Buying of information by companies as to the project specifications and timetable

### Choice of procedure

- Lack of procurement strategy for the use of non-competitive procedures
- Abuse of non-competitive procedures on the basis of legal exceptions through: contract splitting; abuse of extreme urgency; untested continuation of existing contracts
- Timeframe not consistently applied to all bidders, or timeframe that is insufficient to ensure a level playing field



## Risks - tendering

### Invitation to tender

- Absence of public notice for the invitation to bid
- Award and evaluation criteria that are not announced in advance of the closing of the bid
- Sensitive or non-public information disclosed
- Lack of competition or in some cases collusive bidding

### Evaluation

- Conflict of interest and corruption in the evaluation process (e.g. familiarity with bidders over time, personal interests such as gifts or additional employment, no effective implementation of the "four-eyes" principle, etc.)

### Award

- Conflict of interest and corruption in the approval process (e.g. no effective separation of financial, contractual and project authorities)
- Lack of access to records on the procedure



## Risks – post award

### Contract management

- Abuses of the contractor in performing the contract, in particular in relation to its quality, price and timing:
  - a) substantial change in contract conditions to allow more time and/or higher prices for the bidder
  - b) product substitution or sub-standard work or service not meeting contract specifications
  - c) Theft of new assets before delivery to end-user or before being recorded in the asset register
- Deficient supervision from public officials and/or collusion between contractors and supervising officials
- Subcontractors and partners chosen in a non-transparent way, or not kept accountable

### Order and payment

- Deficient separation of financial duties and/or lack of supervision of public officials leading to:
  - a) False accounting and cost misallocation or cost migration between contracts
  - b) Late payments of invoices
  - c) False or duplicate invoicing for goods and services not supplied and for interim payments in advance of entitlement



# The Draft Update Recommendation on Public Procurement

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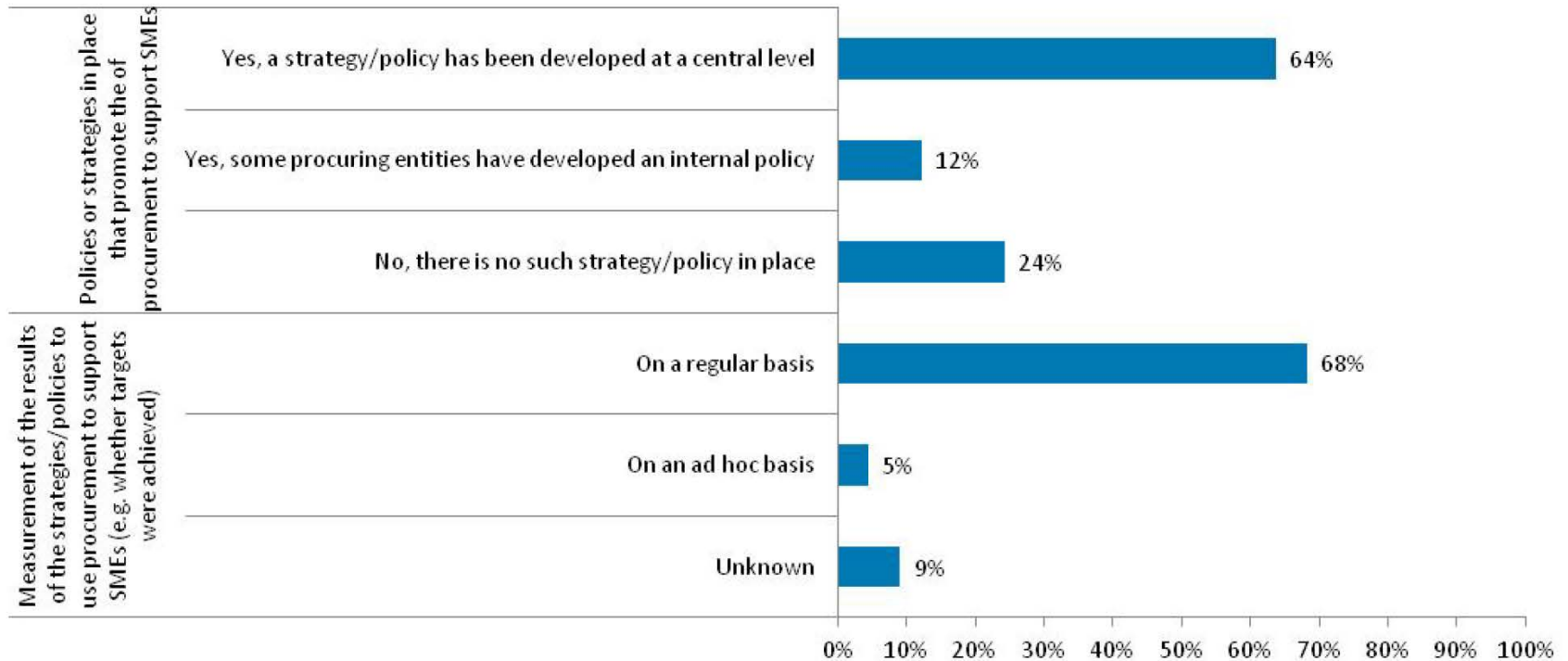
1. Transparency	7. Capacity
2. Access	8. Evaluation
3. Balance	9. Integrity
4. Participation	10. Risk
5. Efficiency	11. Accountability
6. Innovation	12. Integration



# SUPPORT OF SME'S

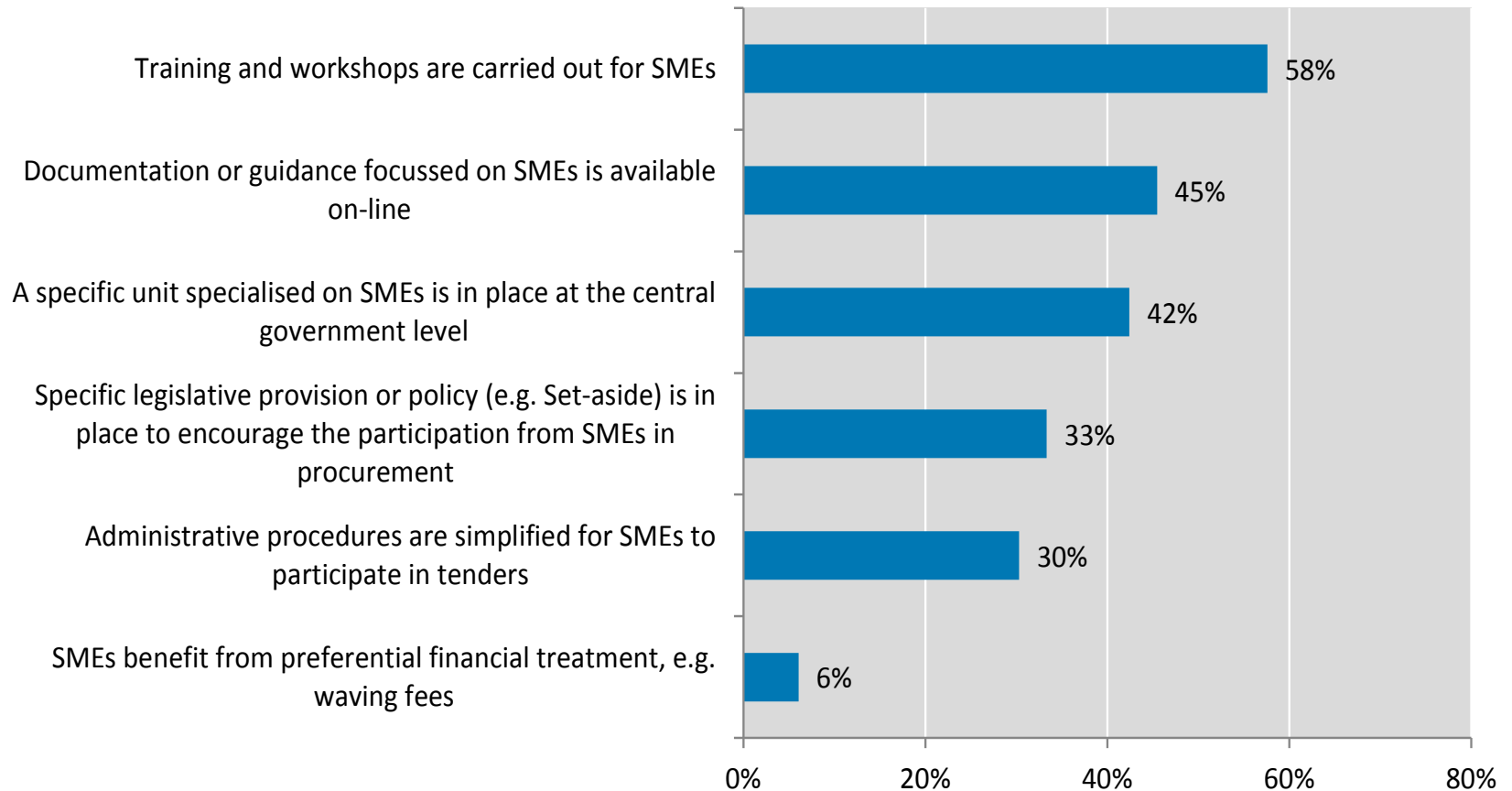


# Procurement is increasingly used as a tool to help SMEs, without always monitoring results





# Approaches to supporting the participation of SMEs in central government procurement





## Practical issues remain (1)

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- **Timely payment:** SMEs cannot always absorb cost of delays
- **Division into lots:** sound product/ local market knowledge is needed so that lots are relevant
- **Access to credit lines:** market conditions may be too onerous





## Practical issues remain (2)

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- **Innovation items:** provide guidance on buying needs; provide rewards
- **Simple regulations:** reduce legal, accounting, licensing, entry and exit burdens for SMEs
- **Regular monitoring of policies supporting SMEs:** assess, continue or reform
- **Provide assistance:** existing networks, on-line tools, cross-border assistance



# OECD GUIDELINES FOR FIGHTING BID RIGGING



# OECD guidelines for fighting bid rigging

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Source

Best practices in OECD countries

Better tender  
design

Help procurement officials design public  
tenders to reduce bid rigging  
(Design Checklist)

Tougher law  
enforcement

Help procurement officials detect bid rigging  
when it occurs (Detection Checklist)



## Checklist for designing tenders

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- Learn about the market and about your suppliers
- Maximize participation of potential bidders
- Define requirements clearly and avoid predictability
- Reduce communication among bidders
- Raise awareness of the risks of bid rigging, provide training



## Checklist for detecting bid rigging

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Procurement officials should be alert for:

- Opportunities that bidders have to communicate with each other
- Relationships among bidders (joint bidding and sub-contracting)
- Suspicious bidding patterns (e.g. ABC, ABC) and pricing patterns
- Unusual behaviour
- Clues in documents submitted by different bidders



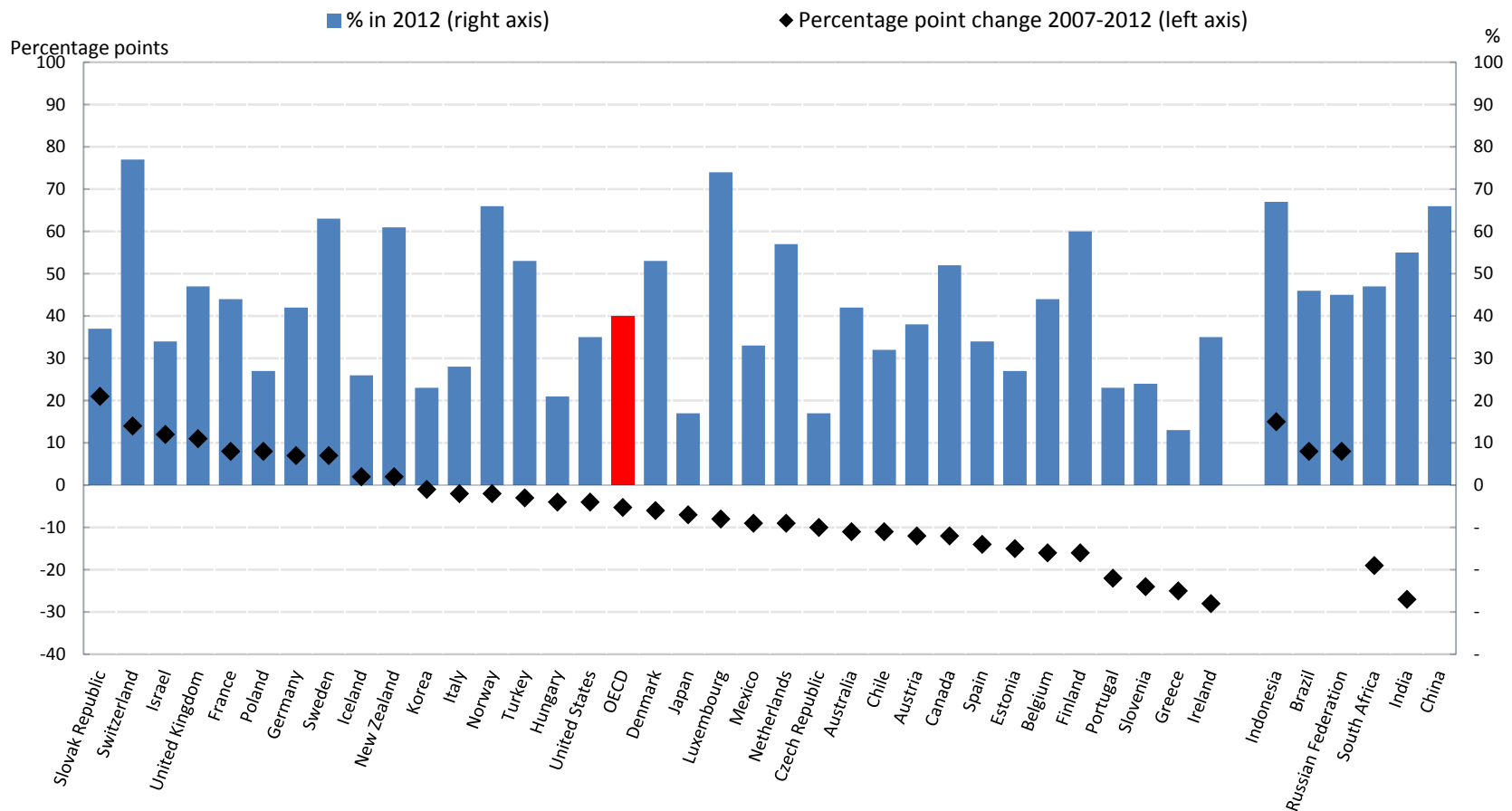
# THE OECD INTEGRITY FRAMEWORK



# Declining trust in government

## Lesson: Trust comes on foot & leaves on horseback

### Confidence in national government in 2012 and its change since 2007

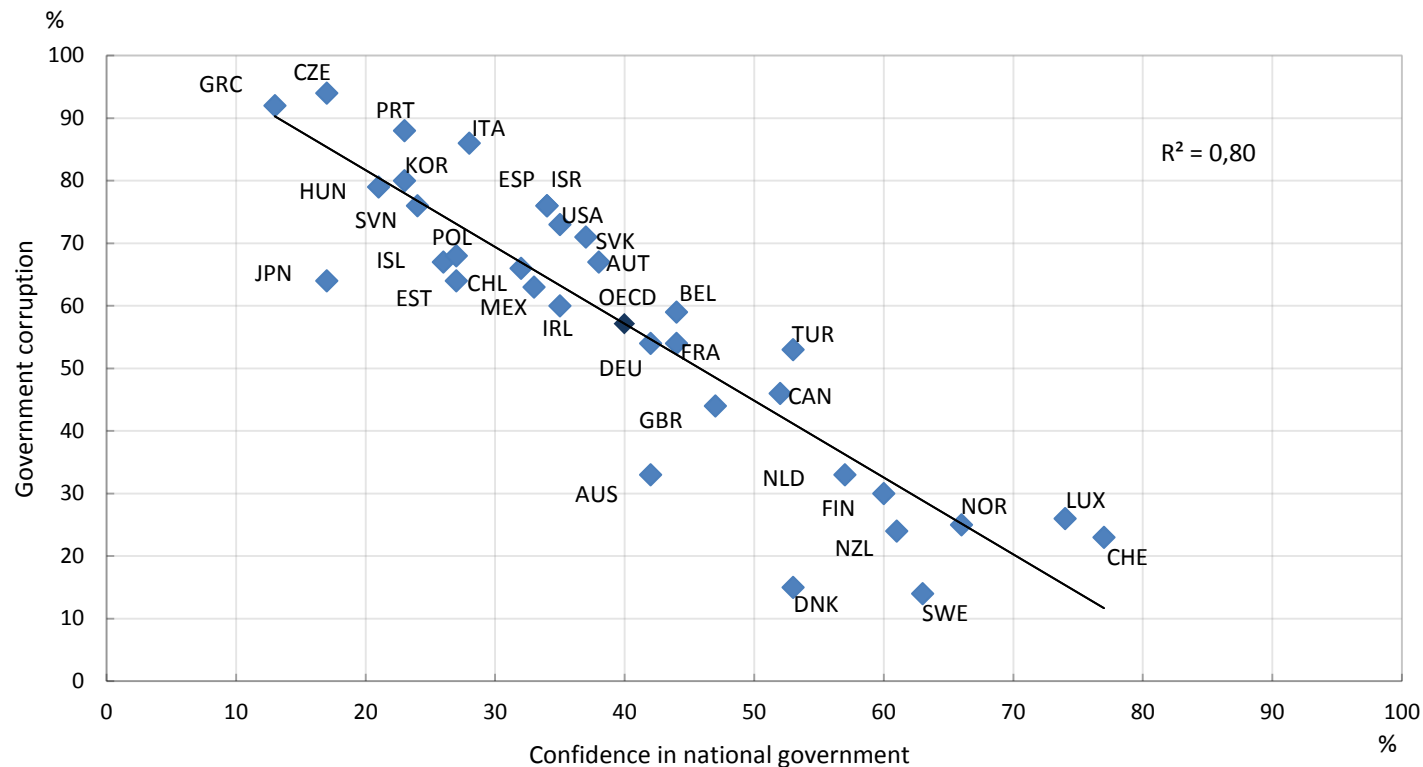




# Does integrity matter?

## See impact of corruption on trust!

### Correlation: confidence in national government and perception of government corruption (2012)



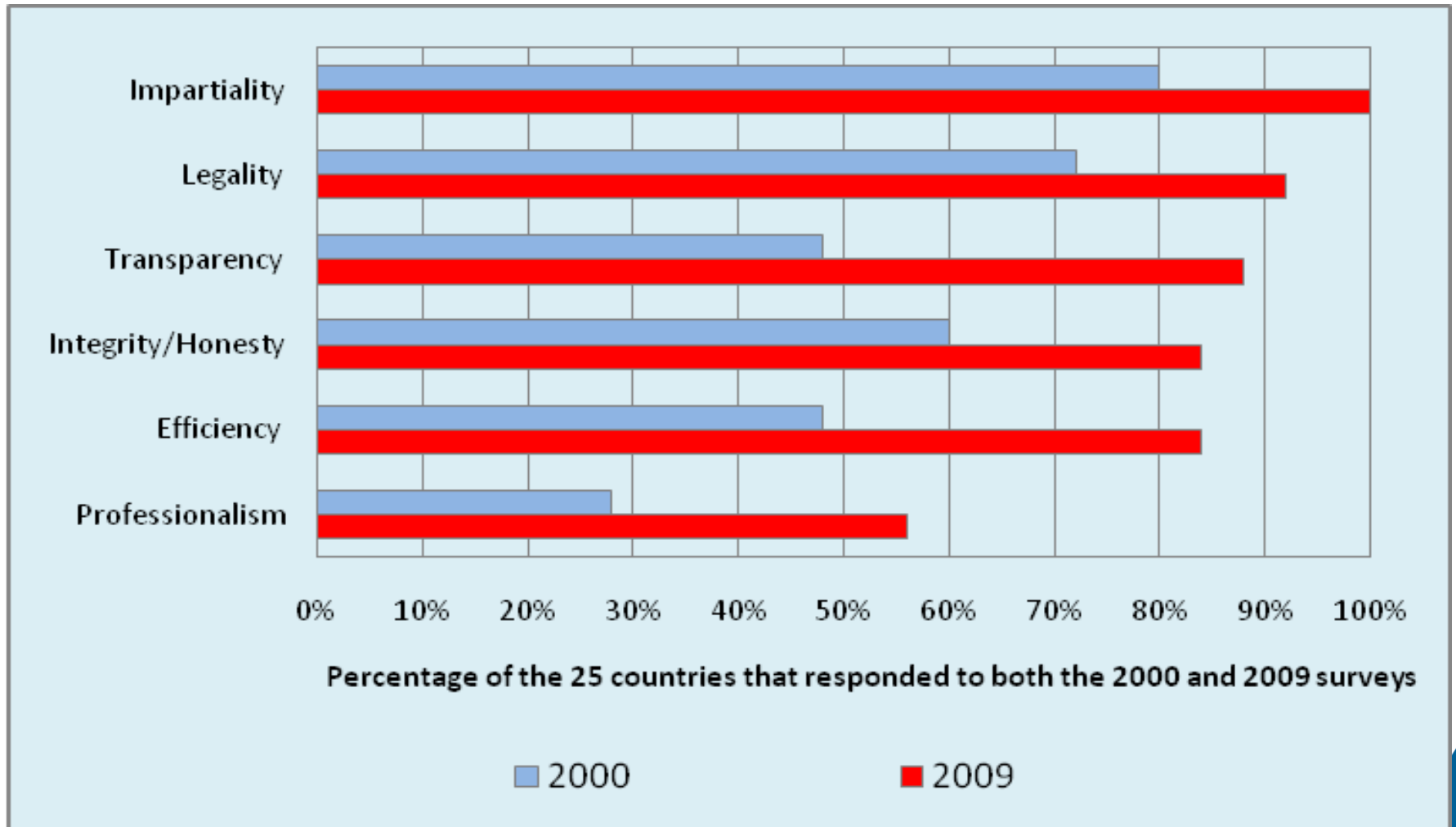
Source: Gallup World Poll





## Core Public Service Values

Frequently stated core public service values (2000 and 2009)





# OECD 2003 Guidelines for Managing Conflict of Interest in the Public Service

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... conflict between the public duty and private interests of a public official, in which the official has private-capacity interests which could improperly influence the performance of his/her official duties and responsibilities. (OECD, 2003)

## Main elements :

- Define characteristics of conflict of interest situations
- Be clear on specific unacceptable behaviour
- Provide leadership and commitment in implementing the policy
- Raise awareness for situations in which conflicts of interest may arise
- Have clear frameworks to disclose and manage conflicts
- Assess the conflict of interest policy regularly



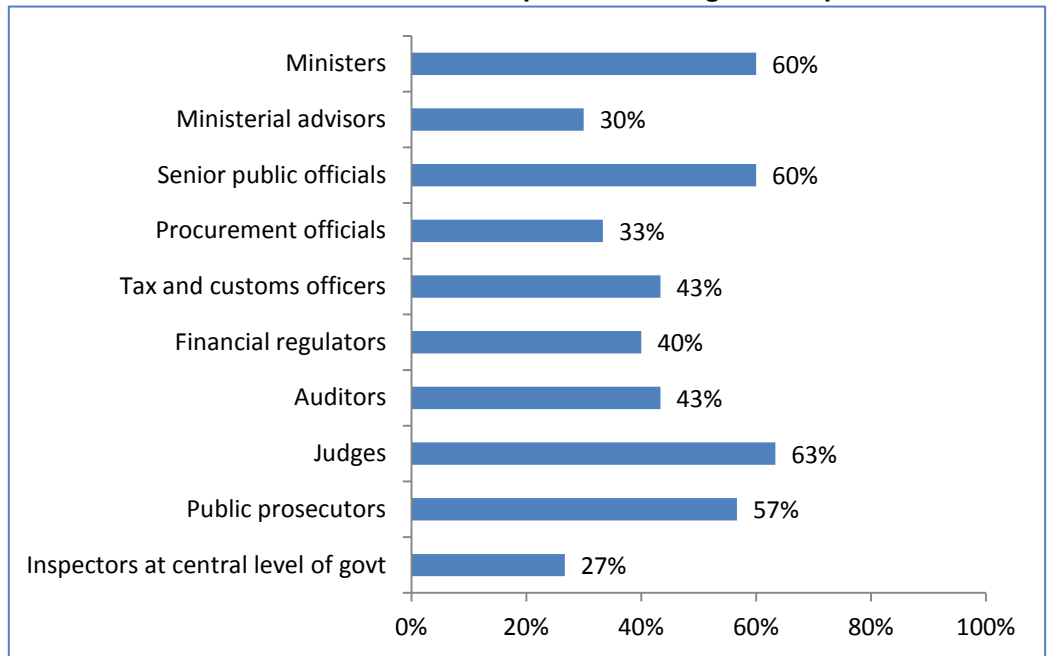
# Conflicts of interest guidance includes:

principles for  
managing post  
public employment  
(2010)

codes of conduct for  
public officials

G20 High Level  
Principles on Asset  
Disclosure for Public  
Officials (2012)

Does your government have specific guidance for managing conflict of interest for particular categories of public officials?



OECD survey, 2012



## Behaviour builds integrity culture

### Checklist for gifts & benefits

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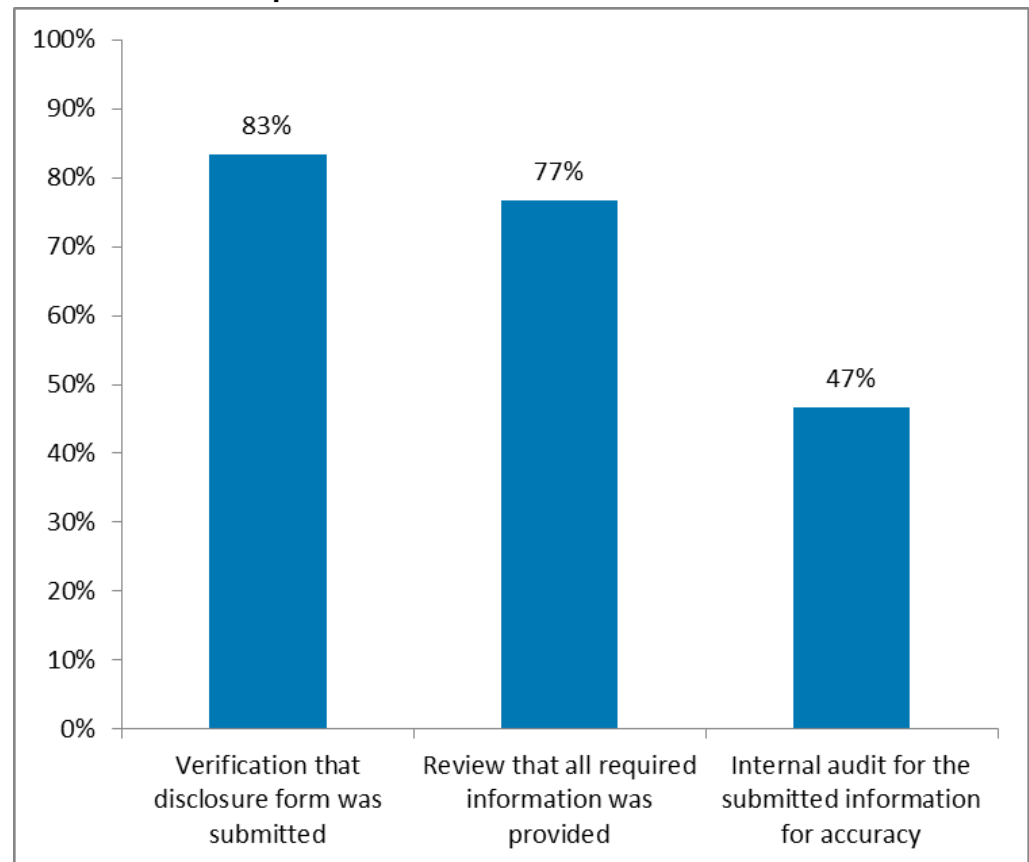
- **Genuine** Is this gift genuine, in appreciation for something I have done in my role as a public official, and not sought or encouraged by me?
- **Independent** If I accepted this gift, would a reasonable person have any doubt that I would be independent in doing my job in the future, when the person responsible for this gift is involved or affected?
- **Free** If I accepted this gift, would I feel free of any obligation to do something in return for the person responsible for the gift, or for his/her family or friends/associates?
- **Transparent** Am I prepared to declare this gift and its source, transparently, to my organisation and its clients, to my professional colleagues, and to the media and the public generally?



# G20 High Level Principles on Asset Disclosure for Public Officials

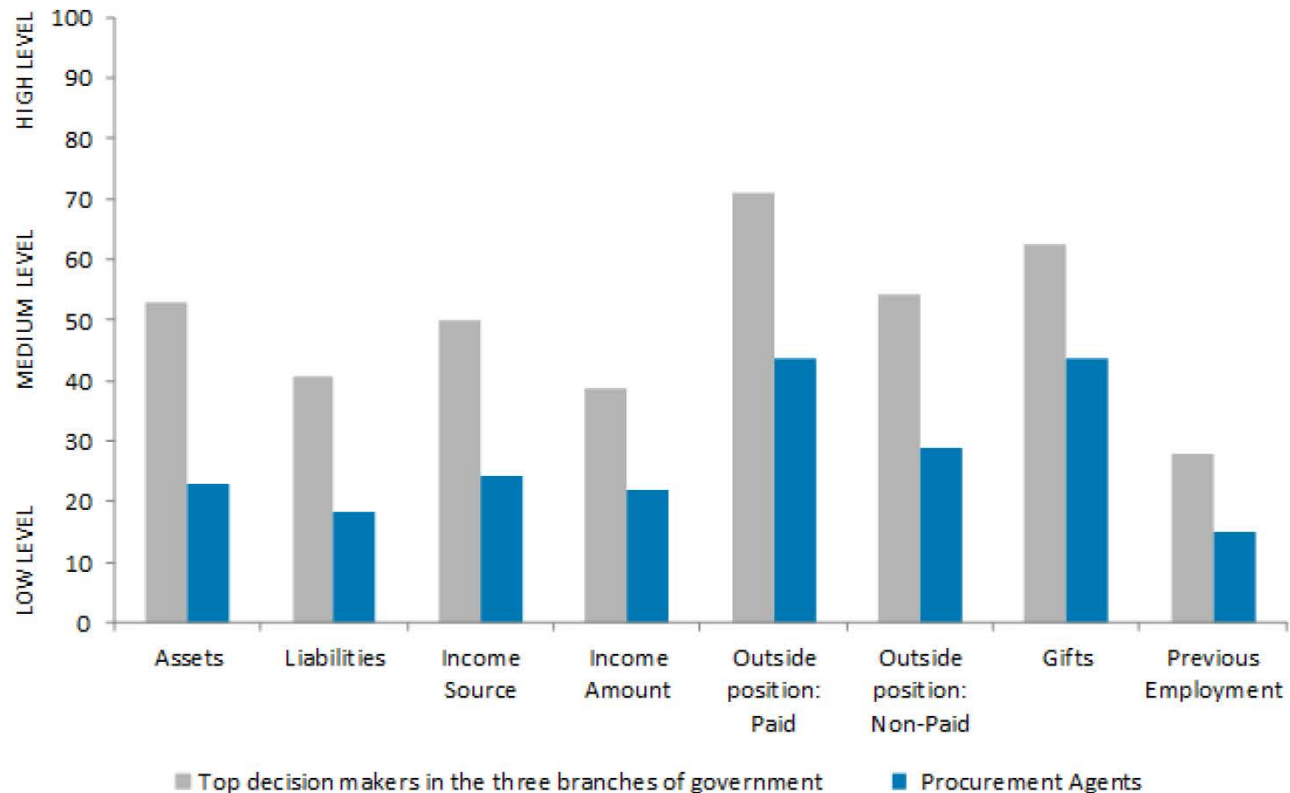
- **Fair**
- **Transparent**
- **Targeted at senior leaders and those in at-risk positions**
- **Supported with adequate resources**
- **Useful**
- **Enforceable**

What actions are taken following the collection of disclosure forms from public officials?





## Level of disclosure of selected private interests for 3 branches of government (legislative, executive and judiciary) and procurement officials





# OECD Integrity Framework: What are the tools?

Integrity measures	Supporting public management processes
<ul style="list-style-type: none"><li>• Codes of conduct</li><li>• Conflict-of-interest rules</li><li>• Financial disclosure requirements</li><li>• Gifts and gratuities policy</li><li>• Post-employment measures</li><li>• Targeted integrity (re-)training, accessible advice and counselling</li><li>• Reporting channels and protection for whistle-blowing</li><li>• Internal integrity actors for co-ordination and external integrity “watchdogs”</li></ul>	<ul style="list-style-type: none"><li>• Access to information law</li><li>• Internal financial controls, including cash, asset and debt management</li><li>• Public procurement, including pre-tendering, tendering and contract management and payment</li><li>• Human resource management, including recruitment, evaluation and career progression</li><li>• Performance management, including quality control processes and external evaluations</li><li>• Internal and external audit, including the monitoring and follow up of recommendations.</li></ul>



# OECD supports a comprehensive approach against corruption

**Regulatory policy**  
**Sound public financial management**  
**Judicial practices**  
**Competition**

**Whistleblowing,**  
**Money laundering**  
**surveillance,**  
**Investigative media**

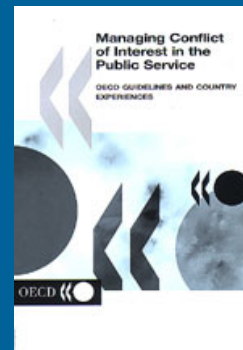
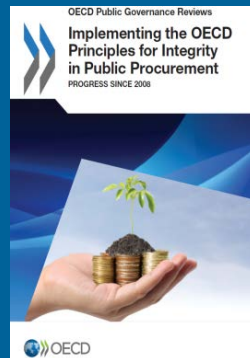
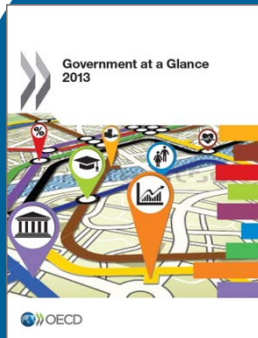


**Conflict of interest**  
**Public procurement**  
**Corporate integrity**  
**Lobbying**  
**Tax transparency**  
**Export credits**

**Criminalising bribery**  
**Asset recovery**



# For more information on OECD work on public procurement and integrity



[www.oecd.org/competition/bidrigging](http://www.oecd.org/competition/bidrigging)

[www.oecd.org/gov/ethics/integrityinpublicprocurement.htm](http://www.oecd.org/gov/ethics/integrityinpublicprocurement.htm)



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Merci beaucoup

Thank you

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