

GOVERNANCE COVID-19 RESPONSE

Ensuring Integrity in the Governance and Institutional Response to COVID-19*

April 28, 2020

1. Overview

Governments around the world are designing and implementing rapid responses to the COVID-19 pandemic. In this effort, they are faced with three extraordinary challenges: (1) a public health emergency to contain the virus including identifying and treating infected populations; (2) widespread food and livelihood insecurity due to mandated stoppage of economic activity and the resulting disruption of food supplies; and (3) adoption of emergency powers to address the crises and maintain public safety. Corruption risks, present in government responses to all these challenges and heightened by the scale and speed of the emergency, undermine the effectiveness of responses. The strains placed on the public sector in responding to emergencies present enormous opportunities for corruption to flourish. Corruption can lead to theft, waste and misuse of scarce resources, resulting in unnecessary suffering and death. It can also entrench elite privilege and inequality and undermine institutions of accountability with lasting consequences. Governments face the additional challenge of maintaining continuity in core functions while dealing with these exceptional circumstances.

This note provides guidance on addressing and mitigating corruption risks in the COVID-19 response, both in the initial response and in the medium term. Over time, and as we learn more about the impact and effectiveness of responses to the crisis, it will be essential to adjust anticorruption efforts to support new governance arrangements and give greater attention to addressing impunity for misbehavior, as well as to shaping norms and standards that affect public sector performance and behavior. The note identifies the broad areas of government response where corruption risks are present and heightened in the context of a pandemic emergency, describes the types of risks that are likely to arise, and provides recommendations for addressing and mitigating them. Guidance provided in this note should be read in combination with the other pieces on the Governance and Institutional Response to the COVID-19 Pandemic.

** This note is one of a series on Governance & Institutions responses to COVID-19, prepared under the guidance of Ed Olowo-Okere, Global Director. This note was overseen by Moustapha Ndiaye and Jim Brumby. The team that produced the note included James Anderson, Joel Turkewitz, Alexandra Habershon, David Bernstein, Francesca Recanatini, and Edouard Al-Dahdah. For further information on this note please contact janderson2@worldbank.org.*

Six principles to help with the anticorruption effort during COVID-19

1. **Keep it simple.** Concentrate on using simple processes as much as possible – quickly document and assign responsibilities. This is not the time to introduce additional complexity and new systems.
2. **Balance discretion with transparency and accountability.** Greater discretion needs to be provided to increase agility; it should be balanced by clear communication with and reporting to the public including identifying the recipients of public money. Create direct links for the public and NGOs so that they can monitor decisions and the use of resources and raise concerns.
3. **Focus on where the money is.** Apply a risk-based approach so that material risks are managed. The economic support packages are big money; eligibility and oversight need to be clear.
4. **Remember that delivering services is a people business and people are an asset and a liability.** Social distancing means many countries are working in a different way than they usually do. This may be keeping the doors of government open, but it also brings new risks. Staff need to be reminded of their fiduciary obligations and control systems need to stay in place.
5. **Praise exemplary action, but report on anticorruption actions taken and individuals and firms sanctioned.** Deterrence can be reinforced by highlighting actions taken but go high and inspire when possible.
6. **Keep one eye on the rearview mirror.** Even though the main effort is to be forward looking and agile to devise approaches that help during this catastrophic time, it is nevertheless also important to constantly review what is working and what is not.

The note is organized around three areas of government response to the COVID-19 pandemic where corruption risks are present and heightened:

Response to the health emergency- Rapidly procuring medical supplies, moving them to intended points of service delivery, ensuring rapid customs clearance of imported medicines, and mobilizing additional health care workers all present risks for corruption. The need for governments to resort to non-standard, emergency procedures to expedite spending and service delivery increases those risks.

Response to food and livelihoods insecurity- The economic and social impact of COVID-19 is becoming more pronounced with extended lockdowns and cessation of economic activity. In the poorer developing countries and fragile contexts an economic shutdown can have a direct impact on food supplies and availability. Government actions to mitigate the economic impact of the pandemic through cash transfers to individuals and emergency subsidies to businesses or food distribution to the poor, while providing a vital lifeline, are vulnerable to fraud and undue influence by private and elite interests or for political gain.

Adoption of emergency powers to address the health and economic crises and to maintain public safety- Governments in many countries have assumed exceptional powers to enable a more rapid response to the crisis. Strict rules mandating quarantine, isolation and curfews, and prohibition of economic activity have in many countries been accompanied by broad authority and discretion for police and other authorities in enforcing these rules. These

measures are fraught with risks of rent-seeking by authorities to look the other way. Some countries have made use of electronic means to track the movement of individuals to enforce containment measures and to track the spread of the virus. Others have justified restrictions on speech and information flow citing concerns about spread of rumors and false data. The adoption of unfettered emergency powers and surveillance technologies risk undermining institutional checks and balances, weakening the authority and independence of accountability institutions, and shrinking civic space in the longer term.

2. The Health Emergency

Corruption risks include:

Corruption in the procurement of emergency supplies and services: Emergency purchases are agreed at grossly inflated prices; emergency contracts are awarded to favored or politically connected suppliers and shell companies established for that purpose; selected procurements are prioritized in return for kickbacks or favors; payments are made for contracts that are not performed.

Corruption in the supply chain and service delivery: Goods and supplies are stolen before reaching their intended beneficiaries; vital emergency supplies are diverted by connected elites or for political favor; fraudulent or defective pharmaceuticals and equipment are introduced into the supply chain in greater quantities due to overburdened customs authorities; unofficial payments by patients to medical workers in return for treatment arises or is exacerbated by the crisis.

Corruption in the administration of the response to the health crisis: salaries intended for additional health workers are diverted or stolen; emergency jobs or new posts are filled by unqualified workers through nepotism or patronage.

Measures to address these risks include:

- *Ensure assignment of responsibilities for oversight of both extraordinary spending measures and of the supply and delivery of goods and services.* Given the unprecedented nature of the crisis and the need for cooperation across agencies and levels of government, oversight mechanisms could easily fall through the cracks. This can be resolved by specifying in every piece of legislation or executive order which agencies will be responsible for oversight. Existing oversight bodies (such as an Inspector General in the health sector) would be responsible for activating rapid supplemental oversight in the delivery of goods and services. If any ex-ante oversight or review processes are to be circumvented in the interest of time, replacements that allow for accountability during implementation of a government process, or shortly after, should be spelled out.
- *Define and activate explicit processes and protocols for documenting emergency spending related to the health emergency response, including procurement transactions, receipt of goods and supplies, and tracking delivery of supplies involving central and decentralized authorities.* Ensure that adequate staff are available to produce records, through redeployment where necessary. This is especially important if spending and procurement are recorded in paper-based systems. Tracking of decentralized services is likely to require engagement with local communities and their leaders.

- *Establish rules regarding the timing and format of publishing information on emergency spending.* The government should be required to disclose publicly all grants, procurements or provision of emergency funds over a set amount within a specified number of days after funds are released and/or used. For example, if competitive public procurement procedures are suspended, then government agencies should be required to publicly post all transactions using emergency funding within 5 days after a contract is signed. Disclosures should include contractor's name (including beneficial owner information if possible), cost of contract, and services to be provided.
- *Shorten feedback loops.* Establish bi-weekly review/audit of spending documentation to ensure comprehensive recording and accurate reporting on movement and delivery of supplies. Reporting on the findings of reviews/validation exercises should be closely linked with remedial actions to address any discrepancies identified. This includes modifying processes to plug gaps in controls, oversight, and monitoring that are contributing to the leakage of goods. Discrepancies that raise suspicions or allegations of criminal acts should be reported to proper investigative institutions.
- *Define clear principles for selection of new and/or temporary staff.* The mobilization of additional human resources required for the crisis should be based on principles of transparency and accountability, properly documented, and guided by clear principles when exceptions are authorized or required. This does not necessarily require protracted competitive processes which may be incongruent with the urgency of the response. Rather, the emphasis should be on highlighting the qualifications required for a position to enable review at a later date. Appointments should be for a limited duration to address urgent needs or subject to review once the immediate emergency subsides.

3. Food and Livelihood Insecurity

Corruption risks include:

Theft and capture in the allocation and use of emergency funds. The speed and scale of emergency funding and the creation of extraordinary provisions creates uncertainty, and in many countries, mistrust and low confidence in existing accountability measures; the allocation of emergency funds is undermined by fraudulent applications; eligibility criteria and distribution of loans and grants to the private sector are captured by vested interests; conflicts of interest skew programs in favor of connected firms, individuals, or groups; distortions in the targeting of cash transfer programs (real or perceived) to include or exclude certain populations leads to mistrust and/or hardship; transfers are stolen prior to reaching intended beneficiaries.

Corruption in the administration of the crisis: equity and efficiency in the constraints placed on economic activity are undermined by fraud and corruption in the designation of essential businesses; emergency payroll is inflated or stolen before reaching frontline workers; additional staffing for government agencies and emergency functions is manipulated through nepotism, patronage or fraud; lack of information and transparency about government actions leads to perceptions of corruption (and/or incompetence).

Measures to address these risks include:

- *Ensure clear definition of eligibility for financial support programs and criteria for selection among applicants (where selection processes are utilized).* Identify authority for program management and responsibility for accountability in the use of funds and in performance tracking. Ensure continued application of conflict of interest rules and procedures.
- *Establish explicit record keeping rules and recording of information relating to recipients of loans and/or grants.* Ensure adequate staffing of record keeping departments, including through redeployment of administrative staff.
- *Where possible, use existing platforms for executing cash transfers and grants and loans that have proven to be effective in the past.* Enlist mobile network providers and leverage community organizations and local business associations to help deploy emergency registration measures for vulnerable populations and micro-enterprises.
- *Information about the volume of spending and the allocation of grants and loans to individuals and private firms should be shared daily and in an accessible way using multiple mediums to ensure the maximum reach.* Platforms should allow for dynamic communication among government, the private sector, and local communities.
- *Shorten feedback loops by undertaking bi-weekly audits/reviews of the completeness of spending records and the accuracy of reporting, making use of multiple information sources.* Present reports on the findings of validation exercises, performed by internal and external auditors with the participation of anticorruption authorities, to senior management responsible for overall program implementation, and make reports public. Establish mechanisms to enable non-governmental participation in the validation exercises.
- *Define mechanisms to proactively respond to problems and discrepancies exposed in the validation reviews.* Responses should focus on modifying processes, control, and oversight to reduce data inconsistencies and actual leakages/thefts.
- *Establish and/or strengthen grievance redress mechanisms to ensure that communities and intended program beneficiaries have access to simple and functional processes to complain when they do not receive their expected payments.* Develop protocols to make public the receipt and response to complaints using platforms that promote community engagement.
- *Consider specifying extraordinary audit and supervision provisions for private sector and SOEs.* Extraordinary grant, loan or guarantee programs to support private sector businesses should include specific audit or supervision provisions. While reliance on existing audit procedures and institutions may be suitable in cases where these bodies have capacity, governments may need to create unique, program-specific auditors or ombudsmen with powers to review and report on the implementation of emergency programs providing funding to the private sector to prevent and detect favoritism, conflicts of interest, bribery, collusion, etc. When a specific fund has been created an explicit oversight mechanism should be established. Such an oversight mechanism should ensure clear management and leadership and may include a special board, special audits, and dedicated resources for enhanced oversight and monitoring/tracking.

4. Adoption of Emergency Powers

Corruption risks include:

Opportunities for corruption created by the exercise of emergency powers include bribery and extortion by law enforcement officers, administrative, or regulatory officers in return for unequal application of emergency regulations.

Emergency powers create an opportunity for executive weakening of oversight and accountability institutions: government actions to respond to the health and economic crisis bypass existing oversight mechanisms for greater expediency; the adoption of unfettered emergency powers undermines the authority and independence of accountability institutions; the adoption of surveillance technologies undermines institutional checks and balances on the abuse of power by government.

Measures to address these risks include:

- *Establish and advertise grievance redress mechanisms to enable individuals to raise complaints about the manner in which the police enforce rules.* Such mechanisms should be extended to administrative and regulatory decisions arising from the adoption of emergency powers.
- *Ensure circumscribed scope and duration of extraordinary powers.* Emergency or extraordinary powers granted to the executive branch or to the government should be clearly defined and limited in scope. Essential information includes the nature of the emergency, why extraordinary powers are needed, and the provisions in place to review and adjust the scope of powers when the emergency has subsided. To ensure that they do not extend longer than necessary, extraordinary powers can be time-bound and contain a sunset clause that ends the powers at a certain date. Alternatively, a grant of extraordinary powers should be accompanied by a clause requiring a specific action by the legislature to continue the emergency powers after a certain date or period of time.

5. Need for follow-through

This note has focused on the serious corruption risks associated with key elements of the emergency response to COVID-19. The principles of an anticorruption program to address those risks recognize that the need for speed increases risks and requires adjustment to ensure that the emergency response can proceed without undue delay. Experience from past crises has shown that reports of corruption can quickly cause trust to evaporate. Low trust in a government's reporting or handling of the crisis can lead some people to eschew medical care or violate necessary precautions such as quarantines. It is important, therefore, that government actions are clearly articulated, rules are enforced, violations are addressed, and problems remedied as quickly as possible in a transparent manner.

Remedies, sanctions, and accountability. Since many of the recommendations in this note focus on record-keeping to ensure accountability, once the crisis has begun to subside it is essential to review records to hold individuals, institutions, and functions to account for malfeasance and performance problems, and to analyze findings to inform needed policy and institutional reforms. It is important to ensure that necessary sanctions and remedial actions are carried out. This may include measures such as debarring firms and individuals where appropriate, recovering assets, and strengthening platforms for inclusive governance.

Communications. It is essential to publicly report about the actions being taken to prevent corruption and to follow up on violations. The perception that many are profiting with impunity from corrupt behavior is also damaging since people tend to gravitate toward what they see to be the norm. It is equally important to report assessments of rule obedience, as well as violations. The media has a key role to play in communicating official information, assessing the government's response and reporting on the public's experience of, and compliance with, emergency measures. Media and civil society observers should be allowed freedom and independence to carry out their roles.

Unwinding temporary provisions. The urgent response to COVID-19 in many countries has led to enactment of provisions such as extraordinary executive powers that could weaken systems of accountability. As noted above, any such change should be accompanied by explicit provisions for external oversight and should also be temporary. Once the emergency is passed, those temporary shifts to the power structure should be reversed.

Maintaining focus on the broader anticorruption agenda. The response to the COVID-19 pandemic is likely to increase the scale of corruption risks and practices that contribute to illicit financial flows (IFFs). It may also introduce new risks, whether as a consequence of theft and diverted funds, the use of shell companies and other anonymous structures registered in tax havens to secure public contracts, loans or subsidies, among other risks. Policy responses to address these risks, such as beneficial ownership transparency and the enforcement of anti-money laundering standards in the financial sector, acquire even greater relevance in the context of the COVID-19 response. Enhanced oversight measures in financial centers in advanced economies in the short term could help with accountability efforts internationally.
