

Transparency International (Korea)

Survey on Integrity Pacts in the Public Sector

December 2003

The original document contains tables not included in this document.



This work is the property of Transparency International (Korea). It has been translated into English from Korean as part of the Preventing corruption in the Official Arms Trade project, Phase 1.

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I. Outline

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1. Background of survey

IPs (integrity pacts) were developed in the mid 1990s by Transparency International to increase transparency in the public sector. IPs are a well-recognized anti-corruption method, that have now been introduced in Argentina, Colombia, Italy, Mexico and others.

In Korea, since the Dongsak district office introduced the system in public construction and commodity procurement contracts in 1999, IPs have spread to local self-governing bodies (local governments) including Seoul Metropolitan City, Jeju-do, Gyung-sangnam-do, government bodies (central government) including Ministry of Education, Ministry of Justice, Ministry of Defense, and public companies including the Korea Agricultural Rural Infrastructure Corporation (<http://www.karico.co.kr/english/index.htm>) and Environmental Management Corporation (<http://www.emc.or.kr/>).

However, it is noted that these bodies have yet to clearly understand the concept and contents of IPs, and that application differs from one organisation to another.

This survey examines how widely IPs have been introduced into the public sector (central, local governments and public companies) and how they are operated. By comparing their implementation with TI's recommendations, this survey will suggest improvements to ensure that IPs successfully prevent corruption in the public sector.

First, the concept and contents of IPs are discussed. The IP is an anti-corruption system developed by TI to ensure that public companies and bidders commit themselves to clean practices. IPs contain elements for practical implementation in the system.

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Core elements of IPs:

- 1) Formal agreement between the public sector and bidders.
- 2) Explicit display of compliance to the IP in the bidding process. Bribery and collusion are breaches of compliance. Agents must be disclosed as must the costs incurred from their involvement.
- 3) Violation of IPs will result in punitive action including cancellation of contract, cancellation of bidding rights for a given period, liability for compensation, blacklisting and further sanctions.
- 4) Arbitration. If there is dispute or suspicion of violation of the IP, this will be resolved through arbitration.
- 5) Forbidding the public sector to take bribes.
- 6) Punitive action against officers in violation of IP: there will be penalties against

public officers in violation of IP.

- 7) Monitoring system by NGO and external parties in the process of bidding.

Recommendations

- 1) Agents' commissions shall not exceed a certain sum.
- 2) Duty of disclosure of public officer's assets: persons in charge of contracts must disclose their assets, which will be monitored periodically.
- 3) Transparency from bidding process to execution. The bidding information and process will be transparently published.

2. Aims and contents of survey

The survey examines how extensively IPs have been introduced, how they are operated in the public sector, and the degree to which IPs are operated in line with their original purpose by comparing it with TI's recommendations in this regard. Furthermore, through uncovering problems in the effectiveness of IPs from the view points of persons in positions of responsibility in the public sector, this survey seeks to ensure that IPs are an effective system to prevent corruption in the public sector.

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The survey consists of 1) objective assessment of IP operation and 2) subjective assessment of IP operation. In more detail:-

1) Objective assessment of IP operation

- Are IPs applied to your organisation and to what extent they are applied?
- When were IPs introduced to your organisation?
- How many contracts were covered by IPs and what is the value of these?
- Are there any regulations which make sanctions against public companies or officers in breach of IPs?
- Are there any IP ombudsmen?
- Are the process and results of bidding/contracting published and what method is used?
- Are bidders encouraged to comply with the code of IP?

2) Subjective assessment of IPs

- Subjective views on the effectiveness of IPs
- Problems and limitations of existing IP operation
- Recommendations to prevent corruption in the public sector

3. Structure of Survey

Questionnaire

This survey consists of 12 questions

<Table 1> questionnaire

Question No.	Question
1	Are IPs applied to your organisation in the following areas/ stages: commodity/service procurement, construction, and authorization/permission?
2	When were IPs introduced to your organisation?
3	How many contracts were covered by IPs and what is the value of those contracts in 2002 and early 2003?
4	Are there regulations which make sanctions against public companies or officers in breach of the IP?
5	Have there been any cases of violation and subsequent punitive action?
6	Are there any IP ombudsmen in your organisation?
7	Do you publish the process and result of bidding/contracting?
8	What is the method of publishing?
9	Do you encourage bidders to comply with the code of IP?
10	How effective is the IP in preventing corruption in the bidding process?
11	Which problems should be addressed immediately to improve IP effectiveness?
12	Please give your recommendations for preventing corruption in the bidding process of the public sector.

4. Design of survey

- 1) Period: Oct - Dec / 2003
- 2) Method: Survey on operation of IP in central and local government bodies, and public companies.
- 3) Execution: Nov - Dec / 2003
- 4) Sample: 50 central government bodies, 16 local educational offices, 257 local government bodies, and 21 public companies.
- 5) Method: sending questionnaires to persons responsible for public contracts in those organisations and requesting supporting evidences, exercising the right of access to public information. Concerning the subjective assessment of IP, telephone calls were additionally used.

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- 6) Principle of presenting survey results to the public: by publishing the survey results, this allows the public to compare the operation of IPs in one area of the public sector with another.
- 7) Sampling error: in 95 percentile confidence level, $\pm 3.01\%$

5. Tools and method of analysis

- We used SPSS and Excel as tools of analysis with bar graphs and cross graphs
- We examined the relationship between demographical factors through frequency analysis and independence test (chi-squared test)

II. Analysis of survey results

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Questionnaires were sent to a total of 334 bodies in the public sector. 321 replies were received. The questions with answers are as follows: -

Question 1: Are IPs applied to your organisation in commodity/ service procurement, construction, and authorization/permission?

<Table 2> Answer from each element of the public sector to question 1

⇒ See table

- 1) IPs are not applied
- 2) IPs are applied to commodity /services procurement and construction
- 3) IPs are applied to commodity/services, construction and authorization/permission

Question 1 checks whether and where IPs are applied. IPs are applied in 74.6% of the organisations, while it is not in the rest (24.6%). IPs are mostly applied in commodity/ services, construction area in the organisations which have adopted IPs. Only 0.9% of organisations applied IPs to authorisation/ permission. 14.3% of public companies apply IPs not only to commodity/ services and construction but also to authorization/permission. IPs have not been introduced to 28.5% of local self-governing bodies.

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Question 2: When were IPs introduced to your organisation?

<Table 3> Answers from each element of the public sector to question 2

=> See table

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Question 3: How many contracts were covered by IPs and what is the value of those contracts in 2002 and early 2003?

<Table 4> Answers from each element of the public sector to question 3

=> See table

Unit: million Won. Small amounts of money and contract through Public Procurement Service were excluded from this table.

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<Table 4> shows the proportion between total contracts made (in 2002 and early 2003) and contracts covered by IPs. Small amounts of money and contracts through the Public Procurement Service are excluded from the table.

In 2002, the table shows the biggest proportion by number of IP application at 87.66% with public companies, while local governments, local educational offices and central governments stand at 68.93%, 68.74% and 48.15% respectively. In proportion by value, central governments are the highest (97.94%) and public companies, local self-governing bodies, and local educational offices are 94.87%, 86.79% and 76.68% respectively. The lowest proportion in the number and the highest proportion in value in central governments show that the IP is applied to expensive contracts.

In early 2003, local education offices show the highest proportion of IP contracts (81.82%) while public companies, local self-governing bodies, and central governmental bodies are 77.39%, 74.54% and 51.04% respectively. Local educational offices applied more IPs to contracts in early 2003 than in 2002. Again, central governmental bodies show the lowest number but the highest value.

Table 4 counts contracts as being covered by IPs even though for some of these contracts, IPs were only introduced late into the life of the contract. Table 5 accounts for this problem of bias.

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<Table 5> answers from each element of the public sector to question 3 (revised)

=> See table

To focus on the year starting January 2002, the organisations which adopted IPs in the 2nd or 3rd quarter in 2002 are excluded.

In 2002, the table shows the biggest proportion by number of IP applications at 99.18% for public companies, while local educational offices, local government offices and central government stand at 91.12%, 69.59% and 66.73% respectively. In proportion by value, public companies are the highest (99.96%) and local educational offices, central governments, and local governments are 99.70%, 99.05% and 90.28% respectively.

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In early 2003, local education offices show the highest proportion by number of IP contracts (91.23%) while public companies, local governments, and central

governments stand at 89.72%, 72.07% and 51.06% respectively. In proportion by value, the order is the same as 2002.

The table reveals that IPs are mostly applied to contracts worth more than roughly 10 million won - 30 million.

Question 4: Are there any regulations which make sanctions against public companies or officers in breach of the IP?

98% of organisations answered to this question, “Yes” showing that they include punitive action clause in violation of IP. This result does not differ from one area of the public sector to another.

<Table 6> Answers from each element of the public sector to question 4.

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Question 5: Is there any case of violation and subsequent punitive action?

<Table 7> Answers from each element of the public sector to question 5.

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Question 5 is posed in order to assess how much effort the organisations make to control violation of IPs. Except for 1-2 cases from local self-governing bodies, 99% of the organisations answered that they have not found or punished any case of violation. This result barely differs from one organisation to another.

Question 6: In your organisation, are there any IP ombudsmen?

(Seoul Metropolitan Government adopted IP's with IP ombudsmen system in 2000. Most of them are recommended by NGOs. But) 90% of organisations answered negatively, meaning only 10% have external monitoring system for their IPs. This is almost the same in every sphere of organisation.

See table 8.

Question 7: Do you publish the process and result of bidding/ contracting?

All educational offices publish both the result and the execution of contracts. 62% of public companies publish both the result and execution of contracts while 33% publish the result only. In local government bodies and public companies, 10% publish both the result and execution of contracts and 90% publish the result only. 6% of central

government bodies do not reveal the process of bidding. It is noted that the proportion that publishes both the process and result of bidding is relatively high.

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<Table 9> answers from each element of the public sector to question 7

- 1) Not publish
- 2) Publish the result of bidding only
- 3) Publish both the result and execution of bidding
- 4) Others

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Question 8: What is the method of publication?

<Table 10> Answers from each element of the public sector to question 8

1. Only on demand
2. Even though there is no demand, it is publicized to all the bidders.
3. Published for the public through the internet
4. Others

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More than 85% of local education offices and local governments publish through the internet (G2B), while for public companies 50% do likewise with 30% open to all bidders only. In central government, 10% publish only in the case of request, 33% to bidders only without request, and 37% publish through G2B, indicating that there are more varied methods of publishing in central government compared with other areas of the public sector.

Question 9: Do you encourage bidders to comply with a code of ethics?

<Table 11> Answer from each element of the public sector to question 9

- 1) Do not encourage
- 2) Encourage bidders to comply with the code of ethics in writing
- 3) Reward bidders which have complied well with the code of ethics
- 4) Others

66.2% of all elements of the public sector responded that they did not encourage bidders to comply with a code of ethics, while 30% do in writing. However, only 1.3% reward bidders which have complied well with the code of ethics. The results are various. More than 70% of local governments do not actively encourage compliance, while 25% doing in writing. 68% of local educational offices do not, while 31% doing so in writing. 50%

of central governments and 40% of public companies do not encourage bidders to comply with a code of ethics. Local governments and local education offices are more negative than central governments and public companies.

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Details of “other” responses (from 4) above)

- Public companies: In the bidding process, bidders are asked to cooperate to cultivate a culture of fair bidding. Bidders are verbally encouraged to comply with a code of ethics, sent a letter about the code, and asked to sign on to IPs.
- Local governments: verbally ask bidders to comply with the codes of ethics.

Question 10: How effective do you think the IP is in preventing corruption in the bidding process?

This question assesses how effective the IP is at preventing corruption from the point of views of persons in charge of contracts. Positive responses, including “very effective” at 11.2%, and “effective, to some degree” at 48.7% exceed the negative responses. However, negative responses including “hardly effective” at 29% and “no effect” at 5.4% are substantial. Around 80% of public companies and local educational offices answered positively (very or to some degree) to the question with central governments and local government at 65% and 55% respectively.

<Table 12> Answers of each element of the public sector to question 10.

- 1) Very effective
- 2) To some degree, effective
- 3) Hardly effective
- 4) No effect
- 5) others

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Other opinions (from 4) others)

- Central government : As there are not many contracts of great value, there is less opportunity for corruption. Since contracts are small, it is hard to assess whether IPs are effective or not. Also, due to the small size of contracts, there may be no opportunity for corruption.
- Local governments: No idea or half effective, half ineffectual.

Question 11: Which problems do you think should be immediately addressed to improve the effectiveness of IPs?

<Table 13> Answers from each element of the public sector to question 11

- 1) Lack of understanding and education in operation of IPs
- 2) Lack of enforcement in violation of IPs
- 3) IP operation a “mere formality”
- 4) Non-existence of monitoring by citizens
- 5) Pressure from the “top” and external sources
- 6) Corruption-friendly culture
- 7) Others

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Different answers were offered from each element of the public sector. Public companies mostly answered “lack of understanding and education on operation of IPs”, and “IP operation a mere formality” while local educational offices, central governments, and local governments list mostly “other opinions”, and “IP operation a mere formality”. “Other opinions” express difficulties with the complexity of the process, negative opinions on the effectiveness of the IP, or no problem existing since IPs are well established.

Other opinions:

- Public companies: corruption must be punished by law. IPs are well operated.
- Local educational offices: As IPs become more established, there is no problem. There seems to be no problem. IPs are unnecessarily complex.
- Central governments: IPs remain psychologically effective. There is no problem due to the small value of contracts. Anti-corruption consciousness is more important than the system. IPs must be supplemented by law. Standardised operation of IPs is needed.
- Local governments: It is difficult to sell IPs to bidders. There is no problem. It is doubtful whether IPs can be applied to contracts with small values. There may be a lack of a legal system in relation to IPs. IPs involve an unnecessarily complicated process. There are many rejection against IPs between bidders. As persons in charge of contracts tend to be excluded in the IP process, IPs do not have an appreciable effect. As the contracting process has become cleaner, there seems to be no need for IPs. IPs need to be applied to wider areas of contracting. As electronic bidding is increasingly introduced, the need for IPs is decreasing. As IPs have no effect, they must be abolished.

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Question 12: Please give recommendations for preventing corruption in the bidding process of the public sector.

- 1) Public companies:
 - Persons in charge of contract must not be disclosed. The Internet needs to be actively used.
 - There should be amendment to the Construction Industry Act which encourages sub-contractors and contractors directly to operate construction.
 - The public sector needs actively to use the electronic procurement system of the Public Procurement Service.

⇒ **Active usage of internet and electronic procurement**
- 2) Local educational offices:
 - electronic bidding system has more effect on prevention of corruption than IPs
 - Minimizing opportunity to meet face to face between the parties is more important in preventing corruption
 - Increasing electronic bidding is an effective way to decrease corruption
 - Decreasing private contracts will result in less corruption
 - Anti-corruption consciousness among people is important to prevent corruption

⇒ **need to adopt electronic bidding**
- 3) Central government
 - anti-corruption consciousness is important
 - anti-corruption consciousness is more important than new system
 - As there are relevant laws and regulations apart from IPs, there is no need for IPs.
 - It is necessary to increase transparency in the process of bidding and contracts
 - Anti-corruption conscientiousness of persons in charge in the public sector and bidders is important.
 - Applying IPs to contracts of small value causes complications and problems

⇒ **anti-corruption consciousness is more important than IPs (and it is therefore not necessary to operate IPs)**

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- 4) Local government
 - With electronic bidding, corruption in contracts has been substantially decreased. IPs do not have much effect.
 - IPs are not effective at preventing corruption: they only make contracts more complicated
 - Increasing electronic bidding seems to have much influence on the prevention of corruption, making the process of bidding simple.
 - IPs seem to have an effect on increasing good faith between the parties
 - To prevent corruption is not a matter of a system but a matter of consciousness.
 - Bidders sometimes consider IPs as mere written formalities during the process of bidding

- Extensive use of electronic bidding results in transparency in the contracting process
 - More advertising of IPs is necessary
 - IPs merely arouse the parties' attention to the cause of fighting corruption
 - As there is less opportunity to meet face to face between the parties through electronic bidding, corruption is drastically decreased.
 - Anti-corruption consciousness between public officers and bidders is more important than the system itself
 - IPs used to have an effect in the first instance but it is a piece of paper now.
 - IPs are well-established and well-recognized
 - IPs go against the trend towards simplification of administration
 - IPs have no effect on preventing corruption and do not force bidders to include IPs in their Company Articles.
 - IPs are only a complicated paper-work process
- ⇒ **It is a matter of consciousness. Electronic bidding is more effective than IPs.**

III. Summary of results

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The summary of the answer to each question is as follows: -

- 1) IPs are applied by 74.6% of the organisations in their commodity/services and constructions while it is not in the rest (24.6%).
- 2) In 2001-2003, IPs were introduced to 80% of organizations. 38.4% introduced IPs in 2001 with 33.1% in 2002 and 21.1% in 2003.
- 3) Concerning the question on whether there is regulation to enforce penalties in case of breach of IP, 98% replied yes.
- 4) Concerning the case of violation of IPs, 99% of the organisations replied that there were no cases of violation except 1-2 cases in local government bodies. It is regarded from the result that either there are no such cases or these organizations may not be able to disclose and punish violation.
- 5) Regarding IP ombudsmen, including NGOs and external parties, 90% responded that they do not have IP ombudsmen system whilst 10% do
- 6) Regarding whether to publish the process of bidding and contract, all the educational offices publish the process and result of bidding. 62% of public companies do, while 33% only reveal the result of bidding. 6% of central government do not release the process of bidding.
- 7) Concerning the method of publishing the bidding process, more than 85% of local educational offices and local government bodies uses internet open to the public (G2B) while 50% of public companies use G2B and 30% of these are just open to bidders. It is more diversified in central government bodies as 10% of them open on demand, 33% open to bidders without request, and 37% use the G2B method.

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- 8) Whether they encourage the bidders to comply with the code of IP differs from one organisation to another. More than 70% of local government bodies responded they “do not” with 25% answering that they give advice in writing. 68% of educational offices, 50% of central governmental bodies and 40% of public companies do not encourage bidders to comply with the IP code.
- 9) Regarding the effectiveness of IPs in preventing corruption, 80% of public companies and educational offices give positive responses while 65% of central governmental bodies and 55% of local self-governing bodies give positive responses.
- 10) Concerning the most important problem of the effectiveness of IPs, opinions are somewhat different between organisations. Public companies indicate that there is a lack of education and understanding regarding IPs, and that the operation of them is nothing more than a formality, while education offices, central government bodies and local government bodies show other opinions with the second most important consideration being that IPs are no more than a mere formality.

- 11) Regarding recommendations to prevent corruption in public procurement and contracting in the public sector, public companies recommend that the internet or an electronic procurement system should be introduced. An electronic bidding system is recommended by education offices while central government bodies comment that reform of consciousness is more important than the IP. Local government bodies indicate that it is a matter of an anti-corruption consciousness, and an electronic bidding system is more effective in preventing corruption.

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IV. Conclusion

The aim of this survey is to examine the operation of IPs in the public sector in Korea and their effectiveness in preventing corruption. The results of the survey are as follows:-

1. IPs are not well-recognised

IPs have mostly been introduced in the Seoul metropolis in public companies, and education offices, and have also been adopted in 70% of local government bodies although these depend on the value of the contract. Even organisations which do not currently have IPs are planning to introduce them in the future: IPs will be spread to more government organisations.

However, a problem is that many organisations consider the IP to be a mere formality - one more piece of paper with a stamp. It is understood that IPs improve transparency and integrity in the bidding process between bidders and government bodies but a simple agreement between the parties concerned does not complete the IP system and it is important for organisations to apply it to the complete process to deter corruption and to monitor the process as well. Therefore, it is recommended that persons in charge of contracts and bidders understand IPs as a concept to implemented through the whole process of bidding.

2. Lack of exposure and penalties against officers and organisations in violation of IPs.

Most organisations include strict punitive clauses in their IPs. However, as there are few cases of violation and subsequent penalties, it is doubtful whether those punitive clauses have an influence on the prevention of corruption. If exposure and punishment of IP violations are not enforced, IPs will remain a mere formality, as many persons in charge of contracts consider. It is necessary to have active exposure and punishment of IP violations in order to ensure that the IP is effective.

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3. Non-existence of IP ombudsmen

Except for some local government bodies, there are few IP ombudsmen systems that include external monitoring persons such as NGO and citizens. 25 local self-governing bodies responded that they have external monitoring systems in the form of IP ombudsmen and committee. Even though most organisations monitor through their internal auditing, it may be difficult to audit the bidding process effectively given that independent internal auditing is not fully guaranteed.

In order to ensure monitoring and investigation, there should be an environment conducive to whistle-blowing, without fear of disclosure to internal or external parties.

However, this condition is not secured in the current internal auditing system. Organisations need to consider adopting external auditing systems by persons free from their or bidders' interests in the bidding process. Furthermore, it would be desirable that the auditing system itself should be an open system to increase independence.

4. Publishing the result of the contract

It is noted from the survey that 95% of organisations publish the results of contracts or publish both the result and process of bidding. The method of publication is mostly based on G2B through the internet. This method is preferred by education offices and local government bodies. However, many central bodies and public companies publish the result of bidding only or only let bidders know on demand and they, therefore, show lower transparency than education offices and local self-governing bodies. As more electronic biddings are introduced, it is believed that the bidding process will become very transparent.

5. Little encouragement of bidders' ethics

Organisations do not encourage bidders to enact their entrepreneurial principles of ethics. 66.2% of all organisations responded that they did not encourage bidders to have them. Even those that do, only ask in writing. As only 4 organisations reward bidders with good entrepreneurial principle of ethics in the bidding contest, organisations do not have much intention to encourage bidders to comply with a code of ethics. Indeed, to rely on written notice without an incentive may not have a big effect. Since contracts made in the public sector have a big and positive effect on those in the private sector, entrepreneurial principles of ethics should be included in the terms and conditions of bidding contracts and incentives should be given to those that have a well established system of business ethics.

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6. Different opinions on the effectiveness of IPs

Assessments differ between organisations. While 80% of public companies and education offices think that IP is, to some degree, effective, only 50-60% of central government and local government bodies agree. However, it may not be because IPs do not have any effect on deterring corruption but rather that there are many organisations that have difficulty assessing the effectiveness with small sums involved in many of their contracts.

There are many negative assessments. 34.4% of the organisations answered that IPs make no difference, and have no anti-corruption effect. Furthermore, many of those that answered that the IP has, to some degree, an effect on preventing corruption responded that it has a psychological "awakening" effect, but it is hard to assess this in practice. In order to establish IPs as an effective method to prevent corruption in the contractual process, it is necessary to redefine the concept of IPs.

7. Most problematic area: IPs as a mere formality

There is a lack of understanding and education regarding IPs. They are regarded as a mere formality - another piece of paper with a stamp. Thus, IPs make the bidding process more complex, leading many parties concerned to reject it. This causes concern as to whether IPs are really necessary.

If persons in charge of contracts in the public sector understood IPs and complied with their requirements, a culture of compliance would emerge and IPs would become a much more valuable tool.

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8. Extension and amendment of electronic bidding system

Electronic bidding is perceived by many organisations to be an effective way to prevent corruption in the public sector. Electronic bidding offers fewer opportunities for organisations and bidders to meet face to face, decreasing the scope for corruption. Therefore, it is desirable that electronic bidding system should be widely introduced.

Electronic bidding increases transparency and fairness in bidding and efficiently reduces scope for corruption. However, dishonestly-controlled electronic biddings are occasionally reported, so the system is not perfect. Therefore, to increase the safety of electronic bidding, technical amendment should continuously be made to the system.

In summary, IPs have already been applied to contracts over a certain value in many parts of the public sector in Korea and IPs are spreading widely. However, there is still a lack of understanding of the content and aims of IPs, even by persons in charge of contracts and IPs in the organisations. In addition, IPs are often regarded as no more than a mere formality. There has been a quantitative spread of IP, but not a matured qualitative one.

IPs should be redefined, and detailed guidelines should be made for each step of the bidding/ contract process, so that IPs can be effective. Furthermore, to facilitate understanding of the IP, active education and selling of IPs should be undertaken. If both organisations and bidders understand the concept and contents of IPs well and comply with the code, IPs will contribute to the establishment of an ethical culture in biddings and contract execution.