

# **Development of Anticorruption Agreements with Water Pipe Manufacturing Companies in Colombia**

## **Sectoral Background**

In Colombia, Article 37 of the Constitution specifies that the supply of environmental services (including water supply and sewage) is a State responsibility, which through the transfer of necessary funds, is assumed by the municipalities. Many players are involved in the sector including the State (the main guarantor of public utilities as well the policy developer – through the Ministry of the Environment and Urban Development- , the regulator –through the Drinking Water Regulation Commission (CRA) and monitor –through the Superintendence of Public Utilities and Industry and Trade. Other players include the municipalities, responsible for providing these services through public, private or semi-private service companies, contractors responsible for providing these services and suppliers, including the pipe manufacturing companies. Currently, only about 5% of small and middle-sized municipalities have privatized the water supply and sewage services, while many of the larger urban centres have done so.

## **Creation of the Agreement**

The initiative to create the sectoral anti-bribery agreement was taken by ACODAL – the Colombian Association of Environmental and Sanitary Engineers, whose affiliated water pipe manufacturing companies accounted for 95% of the national market and 100% of the bids in public tenders for water supply and sewer systems. ACODAL approached Transparencia por Colombia (TI-Colombia) for its advice to address this issue and the two organizations agreed to work together to develop an Agreement amongst the piping companies based on the Business Principles to Counteract Bribery (BPCB).

**The Essential Aspects of the Agreement.** These include:

- Establishment of a general anticorruption policy in each company;
- Development of specific guidelines in each company regarding each of the forms of bribery specified in the (BPCB);
- Development of specific policies regarding pricing policy; distribution and sales schemes and transparent purchasing;
- Development of implementation mechanisms within each company including designating legal representatives; internal controls and audits; human resources; communications; internal reporting and consulting; as well as protection of ‘whistle blowers’; as well as
- The roles of the Ethics Committee and the Working Group

**The Ethics Committee.** Implementation of the Agreement would be supervised by an Ethics Committee. This would be a three-member committee, one of whose members would be an independent well-respected third party elected by the companies. The companies would bear the Committee’s operations costs. The Committee’s decisions would be mandatory on all parties and lack of compliance would make the guilty party legally liable. It would also be the responsibility of the Committee to report to the relevant authorities any questionable behaviour that is brought to its attention.

**A policy of penalties** would be applied in those cases of non-compliance with the Agreement. Reprimands of the Ethics Committee would be shared with the accused company's Board of Directors, ACODAL's Board of Directors, as well as with the other signatories of the Agreement, depending on whether it was the first, second or third infringement of the Company concerned. In addition, it was agreed that the offending company would lose the right to use the seal designed to identify the signatories of the Agreement, for a two, four or six-month period, depending on whether it was the first, second or third infringement.

**A Working Group** would be established with the following responsibilities:

- (a) Develop an action plan to promote the Agreement;
- (b) Establish parameters to monitor implementation of the Agreement; and
- (c) Evaluate compliance with the Agreement.

The Working Group would consist of members of the water pipe manufacturing companies and receive administrative and technical support from ACODAL.

**Issues Addressed in Developing the Agreement** included:

- Assuring sufficient funding for developing the Agreement
- Involving top management of Companies, a sine qua non for the success of the Agreement;
- Keeping the National Interest as the point of reference for the Agreement rather specific needs of individual businesses;
- Interact with all participants on an equal basis, regardless of each company's sales volume;
- Coordinate all issues with up-to-date national legal and commercial legislation as the basis for the Agreement; and
- Assure that the Agreement is followed up by parallel work in the public sector to prevent corruption risks arising from the State.

### **Opportunities Provided by the Agreement**

This effort by the pipe-manufacturing companies in self-regulation is also providing the following opportunities:

- Inducing some Government agencies to develop internal anticorruption policies;
- Inducing more transparent processes in public procurement processes; and
- Promoting good practice in self-regulation for other industry sectors.

### **Future Challenges**

According to TI-Colombia, some of the remaining challenges relate to:

- Continuously improving the environment of trust related to the Agreement implementation and particularly in the Ethics Committee;

- Taking into account the Agreement in the procurement of water distribution and sewage piping by the public sector;
- Continuing the downward pressure on contractual prices of water distribution and sewage piping and thereby reducing the scope for paying bribes; and
- Developing similar anticorruption agreements in complementary business sectors such as public sector companies, consultancy and design companies and contractors.