

## **Public procurement and major infrastructure projects: how to manage ethical risks?**



Joint responsibility:

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As the OECD points out in its 2017 paper on an Integrity Framework for Public Investment, many countries "suffer from growing infrastructure deficits as a result of the economic crisis" (OECD, 2017a: 3). This economic crisis has contributed to a further widening of the gap between spending on maintenance and the development of new infrastructures, and the actual needs of countries. The problem is not just one of the amounts invested in infrastructure: beyond the quantity, there are also issues of social welfare, fair allocation of resources, and choices that affect the quality of life of citizens. When a State invests in road infrastructure, water treatment systems, public transportation or energy production, to name only the main sectors, it makes economic choices that can have a very significant impact on citizens over several decades. There is therefore strong pressure to promote such investments.

This pressure also comes from the private sector, which finds a major source of revenue, both through the lucrative contracts that maintenance and development of new infrastructures can generate, and through those relating to its management, when partnership modes involving the public and private sectors are chosen. As is the case with all public contracts, it is not always easy to ensure that public investments are as productive and efficient as desired. Added social benefit can be affected at times by undue influences on investment decisions, and at others, by ideological pressures to outsource the design and implementation of projects, or by attempts to "capture" the money spent on such projects to minimize the expected social benefits. In the latter instance, corruption, bribery, collusion, influence peddling, and other malpractices are all too often associated with public contracts and large infrastructure projects. In all of these scenarios, the added value of these infrastructure projects will mainly prioritize special interests at the expense of the public interest.

In Quebec, the recent work of the Commission of Inquiry on the Awarding and Management of Public Contracts in the Construction Industry (CEIC - also known as the Charbonneau Commission) revealed the extent of the problems related to corruption and wrongdoing of various kinds (CEIC, 2015). The case of Quebec is not unique, but it is interesting to see how we seemed to have discovered, or rather rediscovered with astonishment, the reality of corruption and other white-collar crimes (Sutherland, 2013). In another 2017 paper on public integrity, the OECD estimated that, across its member countries, between 10 and 30 % of public investment in construction projects could be lost due to mismanagement and corruption (OECD, 2017b: 2). This indicates the vulnerability of public procurement and major infrastructure projects as well as the importance of paying special attention to ethical risks (Boisvert, 2016) that threaten the integrity of these major public investments.

These ethical risks are varied in nature: they are as much a part of organizational culture as they are of preferred management techniques or governance structures, as well as are economic or political pressures that may be exerted on the implementation of certain projects, operationalization decisions to be taken, moral leadership failures, etc. Nor should we forget the role of the economic imagery of private companies that want access to public procurement markets at all costs and are eager to develop strategies to minimize competition, or even close these markets (CEIC, 2015). This transgressive posture takes these delinquent companies far away from the premises of capitalism and its praise of the virtues of healthy competition.

In all cases, the complexity of the economic ecosystems of public procurement and major infrastructure projects, and the need to better understand their vulnerabilities in order to address these ethical risks is evident. The detection of ethical risks and their prevention are becoming imperative for the sound management of public investments. Can the implementation of systems that would protect integrity (Six & Lawton, 2012) and promote ethics (Bégin & Boisvert, 2018) be considered as a promising approach for organizations involved in the management of these large projects?

In this issue of Public Ethics, we are looking for relevant, innovative and well-documented contributions that will shed light on any of the following sub-themes (this list is not exhaustive):

## **Sub-themes and questions**

### **1. What are the constraints that generate ethical risks in public procurement and major infrastructure projects ecosystems?**

Here we refer primarily to contributions that will analyze the constraints present in public procurement and large infrastructure projects ecosystems. These constraints are of several types: economic, political, arising from the interaction of stakeholder interests, related to social acceptability, falling within existing normative frameworks, etc. They may generate a range of ethical risks that can lead to transgressions, misconduct, deviances of all kinds, and even various forms of standardized deviancy (Pinto, 2014; Ashforth & Anand, 2003).

Moreover, constraints, as well as ethical risks, may vary according to the type of public procurement. For example, purchases of registered goods and proprietary products may be possibly accompanied by certain types of constraints and entail specific risks; the same may be true for computer services and computer technology products, medical products and medications, advertising services, etc. (Pinto, 2014; Ashforth & Anand, 2003). Proposals offering an analysis of any of these public contracts from the point of view of the related ethical constraints and risks are welcome.

Documenting the environment of constraints and ethical risks will also make it possible to identify some of the factors most likely to contribute to or hinder the development of an ethically aware culture in the ecosystem of major projects and in public procurement in general (Meyers, 2004; Kaptein, 2009; Jondle et al., 2013).

## **2. Ethical risks: their conceptualization**

Although it is increasingly common to speak of ethical risks, it cannot be taken for granted that there is a consensus on their conceptualization. While it is undeniable that these risks cannot be limited to profiles of transgressor individuals, it is also becoming clear that environmental risk factors must be scrutinized in order to target areas of vulnerability that threaten public organizations (Boisvert, 2018). These factors can be structuring elements of a culture, a governance structure, a management philosophy, and operationalization choices of managerial decisions. In short, ethical risk factors are not limited to elements that are exclusive to the realm of morality. This cannot fail to hamper the identification of what would be problematic both in public procurement in general and in major infrastructure projects in particular. It will also affect the choice of preventive mechanisms and even the way in which good governance practices are conceived. Contributions dealing with the very notion of ethical risks will, therefore, be welcomed.

## **3. What instruments, processes, and structures are best suited to prevent ethical risks in public procurement and major infrastructure projects?**

The identification and prevention of ethical risks require a variety of instruments, processes, and structures (OECD, 2009; Maesschalck & Bertok, 2011). In particular, the effectiveness of normative mechanisms with a direct ethical focus (e.g. codes of ethics and deontology, tip lines) may be questioned. However, it will also be relevant to focus on bodies that are less directly designed for ethical regulation purposes but have significant effects on the prevention of ethical risks (e.g. measures in contractual matters) (Bégin & Boisvert, 2018). Proposals may also focus more directly on the best practices regarding the governance of public procurement and major infrastructure projects.

In addition to these proposals, it will also be relevant to propose strategies evaluating the regulatory infrastructures of public officials and the mechanisms that make them up (Boisvert, Charbonneau & Bégin, 2018), because the mere presence of standards, processes, codes or ethics counselors is insufficient.

Contributions could also explore the regulatory strategies that firms and large companies involved in major infrastructure projects use to curb internal transgressions. In particular, we could question whether business ethics is still a credible issue in an environment where contracts are now worth billions of dollars.

#### **4. What legitimate expectations should be addressed to decision-makers?**

Ethical risk management implies being attentive to the characteristics of organizations, but also to individual actors with decision-making powers in the management of public contracts and major infrastructure projects. What types of skills and leadership are required from these actors? What impact can these factors have on the adequate management of ethical risks? Can training, guidance or accountability be considered to improve the integration of ethical dimensions into the decision-making processes of public procurement and major infrastructure projects?

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#### **The Review's quality requirements**

Prior to publication, all articles are subject to mandatory double peer review to assess their acceptability. The author is then invited to modify the text in light of the reviewers' comments. The Review's executive committee may refuse an article if it does not meet the minimum standards expected of a scientific article or if it is not related to the chosen theme.

#### **Submission procedures**

Individuals wishing to propose an article should send a text proposal to the editors responsible for the issue and the editorial secretariat (see Conditions for submission). Paper proposals should be between 150 and 200 words in length.

The Review's Editorial Board will announce its decision within twenty days of the deadline for submissions. Authors whose proposals are accepted will be able to send in their full paper. Final papers should be approximately 40,000 characters in length (excluding bibliography and abstracts), include an abstract and keywords (in English and French), and a bibliography (no more than three pages).

#### **Terms and conditions of submission**

Proposals for submission, in the form of abstracts of approximately 200 words, should be sent by **29 February 2020** to:

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#### **Abstracts may be submitted in English, but the final texts must be in French.**

Deadline for submission of final texts: 30 June 2020

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