

REFORM Case Study

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Creating Frameworks for Anti-corruption and Ethics

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At a glance

- The Colombian Confederation of Chambers of Commerce (Confecámaras) was a leading advocate for the reform of Colombia's Procurement Law No. 80 and successfully promoted guidelines that enhanced competitiveness and transparency in public procurement.
- Confecámaras engaged the private sector in anti-corruption initiatives, including Transparency Pacts ultimately adopted by 77 mayors and governors.
- 1,855 businesspeople subscribed to an Ethical Code of Conduct developed by Confecámaras.



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The Center for International Private Enterprise is a non-profit affiliate of the U.S. Chamber of Commerce and one of the four core institutes of the National Endowment for Democracy. CIPE has supported more than 1,000 local initiatives in over 100 developing countries, involving the private sector in policy advocacy and institutional reform, improving governance, and building understanding of market-based democratic systems. CIPE provides management assistance, practical experience, and financial support to local organizations to strengthen their capacity to implement democratic and economic reforms. CIPE programs are also supported through the United States Agency for International Development.



The National Endowment for Democracy (NED) is a private, non-profit organization created in 1983 to strengthen democratic institutions around the world through nongovernmental efforts. The Endowment is governed by an independent, non-partisan board of directors. With its annual congressional appropriation, it makes hundreds of grants each year to support prodemocracy groups in Africa, Asia, Central and Eastern Europe, Latin America, the Middle East, and the former Soviet Union.



The Colombian Confederation of Chambers of Commerce (Confecámaras) works to achieve mutual cooperation between public and private sectors. Confecámaras promotes entrepreneurial development and represents common interests of its comprising chambers of commerce in both national and international fora.

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Introduction

Drug trafficking and terrorism are often portrayed as the most severe threats to Colombia's economic and political progress. But in a survey conducted by the Colombian Confederation of Chambers of Commerce (Confecámaras) and the Corona Foundation, more than 37 percent of Colombians identified corruption as the country's main problem. Confecámaras pioneered the Probidad ("integrity") project in late 1999 to fight corruption in the public sector and change the culture of business in Colombia. The goal of the project, a multi-faceted private sector initiative supported by the Center for International Private Enterprise (CIPE), was to promote business ethics and develop a transparent business culture. It also sought to respond to pervasive corruption by forming legal and regulatory foundations for ethical business.

The private sector had always played a minor to insignificant role in challenging Colombia's pervasive corruption, mainly due to a fear of political retribution. Confecámaras became the first private sector organization to undertake a dedicated anti-corruption campaign in Colombia; because of its initiative there is today a greater awareness of corruption and its relationship to the private sector.

CIPE encouraged Confecámaras to drive a policy advocacy campaign that would engage both the public and private sectors on the issue and create a better environment for ethical business. When the Probidad project was initiated, a substantial portion of Colombia's government resources were distributed through public contracts. The absence of transparent rules and regulations in the procurement process created opportunities for widespread corruption. These circumstances spurred the Probidad project to work toward curbing corruption with a particular focus on restructuring the procurement process.

Confecámaras began its initiative by conducting three anonymous surveys on corruption that included more than 1,500 respondents in 15 cities in Colombia. The surveys helped gauge the perceptions of businesspeople concerning the local procurement processes. The anonymous format of the surveys

allowed respondents to comfortably engage in open discussion on businesses' initiation of and participation in corruption. The results suggested that the timing was right for reform and that it could be effectively initiated by the private sector. Although the majority of the business leaders participating in the survey acknowledged their involvement in unethical business practices, 62 percent said that they were ready to accept the costs of committing to higher ethical standards. The surveys served as a platform from which other anti-corruption initiatives were launched.

From Surveys to Results

Confecámaras took the lead in developing five key frameworks for its two primary objectives: combating corruption in general and addressing procurement problems specifically. One of these frameworks was the development of Transparency Pacts in early 2003, just before the democratic elections for governors and mayors. The Presidential Program against Corruption invited Confecámaras to participate as a strategic ally in the development of these pacts. The initiative aimed to solidify political candidates' public commitment to transparency. It resulted in a total of 77 elected mayors and governors committing to transparent practices. To complement this process, Confecámaras mobilized citizen organizations to form follow-up committees that would gauge compliance with the Transparency Pact after the elections.

It is now mandatory for all government agencies to adhere to new guidelines for enhancing competitiveness and transparency in the procurement process. The private sector has become actively engaged in anti-corruption initiatives.

Not long after the Transparency Pacts project, Confecámaras developed the Ethical Code of Conduct, a voluntary measure to promote higher standards of integrity in business transactions and to provide protection for firms that are subjected to extortion attempts. For its pilot program in November 2003, Confecámaras selected 10 small- and medium-sized enterprises (SMEs) in Bogota that had subscribed to the code. This pilot program evaluated the effectiveness

of the code and incorporated the findings in a revised version. In 2005, Confecámaras published the “Guide for Ethical Management of SMEs,” and followed up with workshops in six cities to promote the guide and explain how ethics could be a competitive tool for businesses. In all, 1,855 businesspeople subscribed to the code and its principles.

Confecámaras was also successful in developing public-private partnerships at the local level. In the city of Manizales, the municipal government made Integrity Pacts mandatory for most large-scale public bids. The city’s new process included an oversight committee comprising participating public sector businesses and agencies, local chamber of commerce representatives, and Probidad project staff. The committee evaluated the procurement process and disclosed any falsified contracts. This process greatly increased the levels of transparency in Manizales’ public procurement system. During the project, 12 Integrity Pacts were signed between the municipality of Manizales and the governor’s office. The initiative was well-received by local business leaders, who aided in revising the procurement process at the same time as making private-public partnerships more transparent.

Probidad advocated at the national level for legislative reform toward transparency in the procurement process. In 2002, the Colombian Government began investigating ways to strengthen and improve the procurement process and to create a new procurement law. Confecámaras was invited to participate in a series of meetings along with other experts on procurement law. As a result of this process, in September 2002 the government promulgated Decree No. 2170, which established new rules for the prevention of corruption in the public procurement process. The decree included five business community recommendations gathered by Confecámaras. All five of these recommendations

were incorporated as mandatory requirements in the decree. They addressed the need to publicize the terms of reference of each public bid, expand public awareness, encourage the participation of civil society, ensure objective selection on direct purchases, and strengthen electronic contracting procedures. The decree made it mandatory for all government agencies to adhere to the new guidelines for enhancing competitiveness and transparency in the procurement process.

Creating Sustainable Foundations

Confecámaras and its Probidad project led the way in developing frameworks for combating corruption and introducing higher ethical standards into the procurement process. Its reputation is now well known in many arenas. Recently, Confecámaras was a leading advocate for the reform of Colombia’s Procurement Law No. 80, expected to pass in 2007. The reforms were modeled after the Probidad project’s surveys on corruption. Almost all congressional debates on the Procurement Law made reference to research and recommendations produced by Confecámaras; additionally, Confecámaras created key alliances with other private sector actors in support of the legislative changes. The most important changes that were approved included the elimination of automatic concessions and the promotion and strengthening of local SME participation in public bids.

The most far-reaching impact of Probidad has been its success in actively engaging the private sector in anti-corruption initiatives. The Probidad program generated a new relationship between the public and private sectors and introduced a new, more systematic understanding of corruption and ethics into Colombian society. Its code of conduct is regarded as the backbone of strategies to encourage business ethics and promote a new class of business leadership in Colombia.