

In the Philippines, corruption in construction and infrastructure is broadly recognized to be high, and the CoST pilot has been able to benefit from a strong civil society momentum for transparency. For the Multi-Stakeholder Group (MSG) that directed the Philippines CoST pilot, the challenge has been to coordinate elements of existing transparency initiatives into an integrated and cohesive effort that can ensure the transparency of material project information throughout the entire cycle of a public sector construction project. This note documents how the pilot was established and implemented and how it has sought to make CoST sustainable by working within existing government structures.

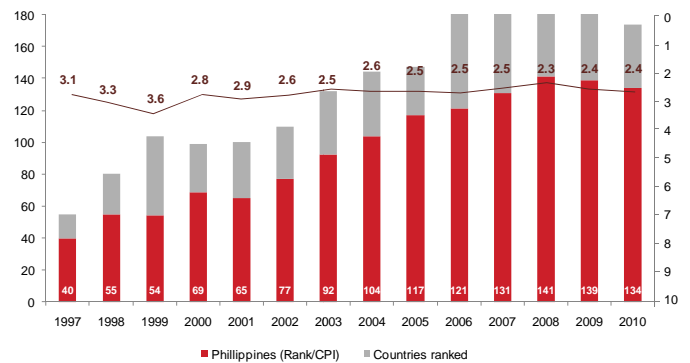
Corruption in the Philippines has worsened despite many efforts by government, civil society, and the private sector to address the problem. Over the last decade Transparency International’s Corruption Perception Index for the Philippines has declined from 2.8 to 2.4 (Figure 1) while the country’s ranking has declined from 69th of 90 countries to 134th of 178 countries. These statistics are consistent with survey results from other agencies, both domestic and international.

High corruption in public construction

Some 30 - 50 percent of the budget for public works in the Philippines reputedly gets lost in leakages. Indeed, a 2004 report suggested that as much as 58 percent of a legislator’s so-called pork barrel for infrastructure gets lost in commissions to politicians, contractors, DPWH officials, local officials, and the state auditor (see <http://www.pcij.org/stories/2004/pork2.html>).

In a 2009 Social Weather Stations Survey of Philippine Enterprises on Corruption, two of the largest Philippine agencies involved in construction were ranked at the bottom of the list: the Department of Public Works and Highways (DPWH) and the Department of Transportation and Communications (DOTC). A 2009 survey by Pulse Asia found the DPWH was the most corrupt government agency, though in the 2011 survey its ranking improved to the third most corrupt.

Figure 1. Perceived levels of corruption in the Philippines



Perceptions of poor sincerity in fighting corruption have been reinforced by high-profile corruption scandals. Among the most controversial of these was the so-called “NBN-ZTE” deal, a US\$329 million scandal involving the construction of a national broadband network by a Chinese company, ZTE; this implicated not only the DOTC but also the sitting Chairman of the Commission on Elections, the Socioeconomic Planning Secretary, and President Gloria Macapagal-Arroyo.

Soon afterwards, in January 2009, the World Bank debarred several construction firms from doing business with the Bank because of suspected collusive behaviour. The DPWH did not escape controversy, and during the subsequent Senate investigation, links were traced between one of the contractors and the husband of President Arroyo.

Philippine transparency initiatives

Against this background, several citizen-led transparency initiatives have taken root in the road sector in the Philippines. The oldest of these is the Citizens of Abra for Good Government, formed in 1986, which has established itself as the country’s pioneer citizen road monitoring group. In 2008, *Bantay Lansangan* (Road Watch) was formed on the heels of a World Bank infrastructure loan scandal: several civil society groups, industry organizations, professional organizations, and academic institutions began partnering with the DPWH to work to reduce corruption in the Department primarily through greater transparency.

At around the same time—smarting from several high-profile corruption controversies—the administration of President Gloria Macapagal-Arroyo formed two transparency initiatives of its own: the Procurement Transparency Group and the Pro-Performance System. Many civil society organizations saw these initiatives more as window dressing than as genuine efforts to improve transparency.

Start of CoST Philippines: creation of the MSG

The Philippine Constitution recognizes the public's right to information on matters of public concern. And with very active groups from civil society, industry, and academia, and very engaged development partners, there was much interest in the Philippines becoming a pilot country for CoST.

After a few missteps, the multi-stakeholder group for the Philippine CoST pilot was formed. To keep things efficient, the primary movers initially decided on a compact MSG comprising one representative each from civil society, government, and the private sector. The three sectors were represented by Road Watch, the DPWH, and the Philippine Constructors' Association. Realizing that perhaps a three-member MSG might be too compact and might benefit from more opinions, expertise, and experience, the MSG was expanded by two to include representatives from academia/the professions and from the Philippines' development partners. At the same time, the chairmanship was moved from the private sector to civil society, because civil society is generally seen to have no vested commercial interest in the road sector. This formation remained in place throughout the pilot phase.

The MSG benefited from a good working relationship among its members, who were already familiar with each other from ongoing engagements among the organizations they represented.

Because MSG members had considerable past experience in efforts to improve governance in the road sector, they were loath to build new mechanisms and structures that risked being unsustainable without donor funding. Thus, after several attempts to conform with the pilot model that was provided by CoST's International Secretariat, the MSG decided to break away from the model by focusing on building and expanding capacity in existing institutions and mechanisms.

Creation of the CoST-Phils Foundation

This said, the viability of CoST in the Philippines required the creation of a new legal entity for CoST Philippines along with a corresponding governance structure. This was particularly important because CoST Philippines was to receive funds from the UK Department for International Development (DFID), and potentially from other sources. The only clear way to channel these funds—given the mix

of government, private sector, civil society, academia/professions and development partners represented in the MSG—was to incorporate CoST Philippines as a foundation with the Philippine Securities and Exchange Commission under the Corporate Code. This creation of a legal entity facilitated the transfer of funds for the pilot (and future funding) and put in place a clear governance and accountability structure for CoST.

The Philippines is the only CoST pilot country to have constituted such an entity. Typically, a group of volunteers such as a CoST MSG is neither a legal entity nor connected in any contractual or hierarchical form. Since the MSGs in the other pilot countries were not legal entities, host agencies had to be appointed to administer their funds and enter into contractual relationships on CoST's behalf.

Box 1: What is CoST?

The Construction Sector Transparency Initiative (CoST) is a multinational effort to explore how public construction projects could be made more transparent and accountable, reducing the mismanagement, waste, and corruption that is common in the sector. Governments, affected stakeholders, and the wider public all stand to benefit.

CoST provides for the disclosure of key information into the public domain for public projects during their preparation and construction phases. To ensure that the information disclosed is accurate, and comprehensible to all stakeholders, it is verified for accuracy and completeness by expert assurance teams appointed for this purpose.

CoST has been piloted over a two-year period in seven countries—Ethiopia, Malawi, the Philippines, Tanzania, United Kingdom, Vietnam, and Zambia—and Guatemala has joined as an associate country. In each country, the CoST pilot has been led by a multi-stakeholder group (MSG) of volunteers.

The CoST approach has proven viable in all eight countries:

- National MSGs continue to operate beyond the pilot stage in all eight countries. Their commitment and ability to raise funds locally testifies to the demand for CoST.
- CoST has been endorsed at the highest level of government in all eight countries. Despite political changes due to elections taking place during the pilot phase in almost all the countries, the support for CoST has continued.
- Baseline studies have been done on 129 completed projects under 32 procuring entities.
- Disclosure and assurance processes have been conducted on a further 81 projects under 29 procuring entities. These projects cover construction projects in eight different sectors, with values ranging from less than \$1 million to about \$500 million.

Findings of the baseline study

Like the other CoST baseline studies, that in the Philippines sought to establish baseline information on the state of material project information (MPI) disclosure “in law” and “in practice.” The study focused on the disclosure of MPI in five procuring entities. It also looked for gaps in existing transparency and governance initiatives.

The study found that in the Philippines there is no legal barrier to the disclosure of the 31 MPI items specified by CoST guidelines, and that 13 of the 31 items are required to be disclosed by law. In practice, only 7 of these 13 items were always or almost always disclosed (project specification, location, financing agreement, project cost estimate, the tender procedure, contractor’s name and contract price). Of the MPI items that were not required to be disclosed, two were always or almost always disclosed (intended beneficiaries and budget). This left 22 MPIs that were rarely or never disclosed. Thus, with only 9 of the 31 MPI items routinely disclosed, the status of disclosure at the outset of the pilot was poor (Table 1).

Table 1. Disclosure of material project information in five procuring entities

MPI DISCLOSURE		Always/almost always disclosed	Rarely/never disclosed
Required to be disclosed	13	7	6
Not required to be disclosed	18	2	16
TOTAL	31	9	22

Poor disclosure of MPI is a result of many factors, according to the baseline study, including: (1) differing contract management practices in each agency; (2) lack of a central repository for required MPI at the agency and national level; (3) lack of a uniform records management policy; and (4) lack of an enforcement mechanism for submission of the information. Clearly an underlying reason is that disclosing MPI increases the burden on overworked staff.

The study recommended addressing the inadequate MPI disclosure by: (1) providing central repositories at the agency and national levels; (2) organizing required MPI into easily accessible format; (3) locating MPI that is not required to be released into the public domain; (4) strengthening enforcement for the submission of MPI; and (5) formulating and implementing a uniform records management policy.



Disclosure: working with PhilGEPs

By law, all government procurement should pass through the Government Electronic Procurement System (PhilGEPs). PhilGEPs is the central portal that hosts information on the procurement of goods and general support services, civil works or infrastructure projects, and consulting services undertaken by procuring entities of the government. Thus in principle PhilGEPs should capture many of the MPI items. The problem with PhilGEPs is that compliance with the postings required by the Government Procurement Reform Act of 2003 is very low especially regarding data and information on projects that have passed the contract-award stage.

As part of its policy of building on existing structures, the MSG signed a Memorandum of Agreement with PhilGEPs and has been working closely with the Department of Budget and Management (the PhilGEPs home agency) and other government agencies to increase compliance with the posting requirements. To make PhilGEPs postings CoST-compliant, the coverage of information will need to be expanded to cover additional items of MPI. One of the outputs of the CoST pilot in the Philippines is a business plan to make PhilGEPs self-funding so that it can expand its coverage.

The MSG integrated the disclosure of MPI into PhilGEPs by publishing information from ten construction projects. In disclosing the MPI, the coverage of PhilGEPs’s published information was extended from the tender process to the whole project cycle. (The MPI can be obtained from www.philgeps.net)

If CoST Philippines succeeds in increasing compliance with existing posting requirements and expanding the information required to be posted, then the problems of disclosure can be squarely addressed.

Assurance: working with the Audit Commission

To achieve transparency it is crucial that the information disclosed by procuring entities be accurate and comprehensible to all stakeholders. The original guidelines for the CoST pilot thus provided for the appointment of assurance teams (AT) as separately constituted groups of experts who would verify the accuracy and correctness of the MPI disclosed by procuring entities. Additionally, an AT may be tasked with interpreting its findings and making its interpretations accessible to the public, and with highlighting any “areas of concern.”

The Philippine MSG could not find a sustainable model for the AT that did not require constant funding. If CoST was to be sustainable beyond the pilot phase, another model had to be adopted. The MSG decided to work with the Commission on Audit (COA)—the Philippine Government’s supreme audit institution—as the CoST Assurance Team. The Commission’s mandate includes

ensuring the effectiveness and efficiency of government, and within this mandate, the Commission agreed to perform the AT role for CoST.

To do this, the COA assurance teams (COA-ATs) had to be trained on the CoST pilot program and the role that the AT was expected to play. Fortunately, COA has in-house engineers who form part of the audit teams that audit infrastructure projects. These engineers formed part of the COA-ATs.

Because the COA-ATs discovered sensitive information, the MSG decided to share their findings confidentially with the procuring entities to give the agencies the opportunity to respond. Also, and just as important, the MSG needed the continued support of the heads of the PEs for CoST, not only for the pilot but also for its eventual full rollout. It is anticipated that future AT reports will be made publicly available.

Publicising the information disclosed

Because the Philippine MSG contains members from “interested parties”—government and private contractors—it may not be able to objectively interpret the information being disclosed or to report, itself, on areas of concern. It will probably see its role as simply to communicate to the public that such information is available for studies, research, and advocacy. The interpretation of the information and the public presentation of identified “areas of concern” can be taken up by other parties such as civil society organizations, academics, and the media.

Hopefully, with an informed public, third parties can use the information to determine whether in fact the public is getting value for money in construction.

Future of CoST in the Philippines

The MSG has tried hard to ensure the long-term viability of CoST in the Philippines, in particular by building on existing institutions and mechanisms. If successful, systems and procedures will be put in place to ensure that the Philippines becomes fully CoST-compliant. Disclosure can be made routine as compliance with PhilGEPS increases and as the system is expanded to cover other MPIS. Assurance will become part of the routine work carried out by the audit teams of the Commission on Audit. This will require additional training and perhaps some legislation to explicitly mandate the COA to do CoST-MPI assurance. CoST Philippines is working with PhilGEPS to make it self-funding so that it can be financially independent and viable in order to stay on the leading edge of technology and ensure compliance.

All of this is being done in a long-overdue atmosphere of reform and openness ushered in by a new administration. New leadership at key institutions such as the COA and the Department of Budget and Management has given much hope that indeed the Philippines will be CoST-compliant.



Box 2: Achievements of CoST Philippines

- CoST Philippines has successfully built on existing transparency initiatives through the effective leadership of the MSG.
- The MSG provided a space for likeminded individuals from government, the private sector, civil society, and professionals to come together and achieve a common goal.
- The creation of a legal entity, the CoSTPhils Foundation, facilitated the transfer of funds for the pilot (and future funding) and put in place a clear governance and accountability structure for CoST. Pilot countries that did not follow this model needed to rely on host agencies to manage their funds and enter into contractual relationships on the MSG’s behalf.
- MSG members were concerned to promote sustainable structures for CoST and thus sought to work with and through government agencies and existing initiatives. CostPhils signed a Memorandum of Agreement with the Philippines Government Electronic Procurement System (PhilGEPS) and the Commission on Audit as enabling partners.
- The MSG has built interest in CoST through extensive marketing, media briefings, and events.

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