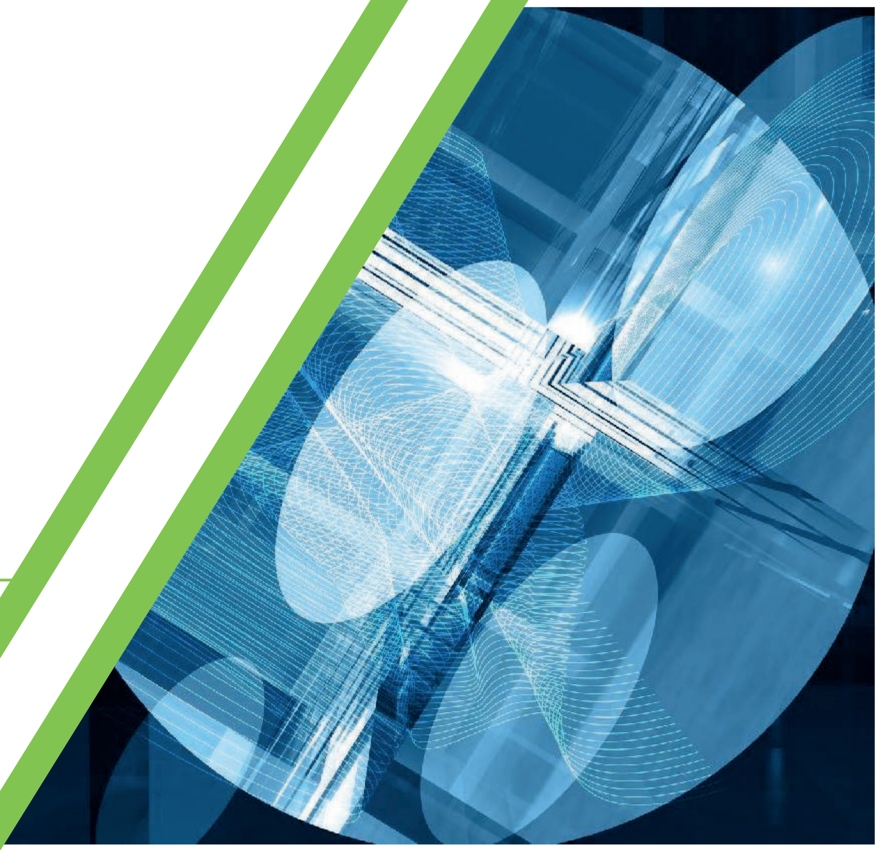
# Recommendation of the Council on Effective Public Investment Across Levels of Government



OECD Legal Instruments

BETTER POLICIES FOR BETTER LIVES

For access to the official and up-to-date texts of OECD Legal Instruments, as well as other related information, please consult the Compendium of OECD Legal Instruments at http://legalinstruments.oecd.org.

**Please cite this document as:**
OECD, *Recommendation of the Council on Effective Public Investment Across Levels of Government*, OECD/LEGAL/0402

Series: OECD Legal Instruments

## Date(s)

Adopted on 12/03/2014

## Background Information

The Recommendation on Effective Public Investment Across Levels of Government was adopted by the OECD Council on 12 March 2014 on the proposal of the Territorial Development Policy Committee (now called Regional Development Policy Committee). The Recommendation is the first OECD instrument in the area of regional policy and multi-level governance. Its purpose is to help Adherents at all levels of government to assess the strengths and weaknesses of their public investment capacity, a critical shared responsibility across levels of government, and set priorities for improvement. It emphasizes the crucial contributions that all levels of government can make to national development and long-term growth.

**THE COUNCIL,**

**HAVING REGARD** to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

**HAVING REGARD** to the Recommendation of the Council on Improving the Quality of Government Regulation [C(95)21/FINAL], the Recommendation of the Council on Regulatory Policy and Governance [C(2012)37], the Recommendation of the Council on Improving Ethical Conduct in the Public Service including Principles for Managing Ethics in the Public Service [C(98)70/FINAL], the Recommendation of the Council on OECD Guidelines for Managing Conflict of Interest in the Public Service [C(2003)107], the Recommendation of the Council on Enhancing Integrity in Public Procurement [C(2008)105], the Recommendation of the Council on Principles for Transparency and Integrity in Lobbying [C(2010)16]; the Recommendation of the Council on Principles for Public Governance of Public-Private Partnerships [C(2012)86], and the Recommendation of the Council on Private Sector Participation in Infrastructure [C(2007)23/FINAL];

**RECOGNISING** that effective public investment can make a crucial contribution to sustainable development and growth at the national and sub-national levels, and also increase citizen trust and well-being today and tomorrow;

**RECOGNISING** that the majority of public investment in OECD Member countries occurs at sub-national levels of government, while remaining a shared responsibility across levels of government;

**RECOGNISING** that both in times of fiscal pressure as well as fiscal expansion, governments require improved efficiency and effectiveness of public spending, including for investment;

**NOTING** that the OECD plays a leading role in promoting good governance at national and sub-national levels of government, as well as good practices for co-ordinating across levels of government;

**NOTING** that, at the meeting of the Territorial Development Policy Committee at Ministerial level on 5-6 December 2013, Ministers considered that the Principles on Effective Public Investment offered a plan for action and called for their transformation into an OECD instrument, stressing that its implementation would lead to more effective co-ordination mechanisms, stronger capacities and better framework conditions [Chair's Summary, see GOV/TDPC/MIN(2013)3];

**HAVING REGARD** to the background document for each Principle set out below and noted by Ministers on 5-6 December 2013 [GOV/TDPC(2013)3/REV2];

**NOTING** that, for the purpose of the present Recommendation, the following definitions are used:

- "Governments" means all levels of government;
- "Public investment" means capital expenditure on physical infrastructure (e.g. roads, government buildings) and soft infrastructure (e.g. human capital development, innovation support, research and development) with a productive use that extends beyond a year. Statistics capture direct public investment as measured by gross fixed capital formation;
- "Sub-national governments" means all levels of government below the national one (regional and local);
- "Regional governments" refers to the levels of government immediately below the national level in federal countries (i.e. federated states) and in unitary countries (with two or three tiers of subnational governments);
- "Local government" means administrative or political units immediately below the federated states level in federal countries but all subnational governments in unitary countries;
- The terms "region" and "local" can also refer to sub-national geographic areas with specific socio-economic or territorial characteristic that may or may not correspond with administrative or political units.

**On the proposal of the Territorial Development Policy Committee:**

**I.** **RECOMMENDS** that Members implement the following Principles to strengthen the effectiveness of public investment across all levels of government:

**A. Co-ordinate public investment across levels of government and policies**

***1. Invest using an integrated strategy tailored to different places***

i) Design and implement investment strategies tailored to the place the investments aim to serve. Public investment choices should be linked to a development strategy based on assessment of regional (or local) characteristics, competitive advantages, growth, innovation, and job creation potential, and considerations of equity and environmental sustainability. Investment strategies should be results-oriented (with clearly defined policy goals), realistic and well-informed (based on evidence that points to the region's or locality's ability to make fruitful use of investments), and forward-looking (with investments that can position regions and localities for competitiveness and sustainable development in the context of global trends).

ii) Seek complementarities and reduce conflicts among sectoral strategies. Mutually reinforcing impacts in the form of policy complementarities are often required to make the most of public investment. At higher levels of government, such complementarities can be facilitated by a) using strategic frameworks for public investment to align objectives across ministries and levels of government; and b) minimising administrative barriers through co-ordination mechanisms such as, but not limited to, inter-ministerial committees and programmes, and harmonisation of programme rules. Governments can also establish joint investment funds that pool monies across public agencies/ministries to encourage consideration of a broader set of priorities.

iii) Encourage the production of data at the relevant sub-national scale to inform investment strategies and produce evidence for decision-making. Such data may be collected by statistical agencies but also from administrative records, other data sources, and citizens themselves.

***2. Adopt effective instruments for co-ordinating across national and sub-national levels of government***

Co-ordinate across levels of government to strengthen the efficiency and effectiveness of public investment. Co-ordination is necessary to identify investment opportunities and bottlenecks, to manage joint policy competencies, to minimise the potential for investments to work at cross-purposes, to ensure adequate resources and capacity to undertake investment, and to create trust among actors at different levels of government. Several tools can be used when coherence of investment across levels of government is required, such as co-financing arrangements, contracts between levels of government, formal consultation processes, national agencies or representatives working with sub-national areas, or other forms of regular inter-governmental dialogue.

***3. Co-ordinate horizontally among sub-national governments to invest at the relevant scale***

Provide incentives and/or seek opportunities for co-ordination among regional and/or local governments to match public investment with the relevant geographical area. Horizontal co-ordination is essential to increase efficiency through economies of scale and to enhance synergies among policies of neighbouring (or otherwise linked) sub-national governments. Modes of co-ordination include contracts, platforms for dialogue and co-operation, specific public investment partnerships, joint authorities, or regional or municipal mergers.

**B. Strengthen capacities for public investment and promote policy learning at all levels of government**

***4. Assess upfront the long-term impacts and risks of public investment***

i) Use comprehensive, long-term assessments for investment selection. Ex ante assessments should be used to both clarify goals and reveal information. Appraisals should be technically sound, help to identify social, environmental and economic impacts, and investigate which investment method is likely to yield the best value for money. Policy makers should also consider policy and project complementarities, as well as alternatives to investment and efficient use of existing capital stocks to reach particular goals. Long-term operational and maintenance costs should be clearly assessed from the early stages of the investment decision.

ii) Assess different types of risks and uncertainty associated with public investment, including longer-term impacts, at an early stage of the investment cycle as part of an appraisal. This includes fiscal risks, such as contingent liabilities, as well as political, social, and environmental risks. Such risks and adapted mitigation strategies should be re-evaluated as new information becomes available.

### *5. Engage with stakeholders throughout the investment cycle*

i) Engage with public, private sector and civil society stakeholders in the design and implementation of public investment strategies to enhance social and economic value, and to ensure accountability. All levels of government should involve stakeholders in needs assessment and the design of an investment strategy at an early stage of the investment cycle, and, at later stages, in feedback and evaluation. Information on public investment plans, expenditures, and results should be exposed to some level of public scrutiny to promote transparency and accountability.

ii) Seek a balance when incorporating stakeholders' views, taking steps to prevent disproportionate influence by special interest groups. Consultation processes at all levels of government should be inclusive, open and transparent, as well as promote transparency and integrity in lobbying.

### *6. Mobilise private actors and financing institutions to diversify sources of funding and strengthen capacities*

i) Match private financing arrangements to investment needs and government capacity, particularly at the sub-national level, through careful analysis of the pros and cons of different private participation arrangements and what they entail in terms of risk and government financial and administrative capacity. Decisions regarding Public Private Partnerships (PPPs) should be co-ordinated with the budget process and their potential value-for-money should be compared to that of traditional procurement.

ii) Involve private actors and financing institutions in public investment to offer more than just financing. Involving private actors and financing institutions in the investment should be a way to strengthen the capacity of government at different levels and bring expertise to projects through better ex-ante assessment, improved analysis of the market and credit risks, and achieving economies of scale and cost-effectiveness. Governments should mobilise innovative financing instruments or mechanisms, but do so with a clear understanding of the capacities such approaches require.

### *7. Reinforce the expertise of public officials and institutions involved in public investment*

Bolster the capacity of both officials and institutions associated with public investment. Due attention should be paid to effective human resources management, as well as to cultivating knowledge (identifying, sharing and applying good practices such as the present Principles) and relationships (refining mechanisms for vertical co-ordination, strengthening co-operation among sub-national governments, and developing linkages to sources of expertise). Capacity at the sub-national level deserves particular attention; in some cases financial resources, professional skills, or institutional quality may be lacking. Not all capacities can be strengthened at the same time. It is therefore valuable to identify binding constraints and the proper sequence of reforms.

### *8. Focus on results and promote learning from experience*

Clarify the outcomes to be achieved through public investment and pursue mechanisms to achieve them. Those mechanisms can include results-oriented investment strategies with clearly defined policy goals, well-designed tendering procedures, effective monitoring systems, high-quality ex-post evaluation, regular reflection on and upgrading of investment choices, active exchange of information and on-going, and mutual learning among actors involved in public investment.

**C. Ensure proper framework conditions for public investment at all levels of government**

***9. Develop a fiscal framework adapted to the investment objectives pursued***

i) Employ a fiscal framework adapted to the different investment policy objectives pursued. Intergovernmental earmarked grants and co-financing (matching) arrangements are appropriate when projects generate positive spillovers, when economies of scale are needed, when risk sharing or temporary co-operation is sought, when it is necessary to align priorities across levels of government and when capacities of sub-national governments need to be bolstered. Co-financing can also increase the commitment of different stakeholders to the success of a project as well as encourage resource pooling across sub-national governments.

ii) Set enabling conditions for sub-national governments to be able to exploit their own revenue raising potential, not only to finance investment, but to allow for participation in co-financing arrangements and to address long-term operations and maintenance costs.

***10. Require sound and transparent financial management at all levels of government***

Adopt good practices for budgeting and financial accountability such as accurately costing public investment plans, reflecting them in budget strategies and allocation processes, fitting them into a medium-term budget framework and duly considering long-term operating and maintenance costs. This includes proper budgetary treatment of PPPs, local public enterprises, and any associated contingent liabilities.

***11. Promote transparency and strategic use of public procurement at all levels of government***

i) Maximise transparency at all stages of the procurement cycle, promote the professionalisation of the procurement function, and establish clear accountability and control mechanisms. Procurement systems should be transparent, competitive, and monitored to ensure funds are used as intended, and effective at registering and addressing complaints. Governments should invest in ensuring adequate capacity, in particular at the sub-national level, by employing and training procurement professionals, using collaborative procurement mechanisms, and employing e-procurement tools.

ii) Use procurement to ensure effective public service delivery while pursuing strategic objectives at different levels of government. To do so, the objectives of procurement should be clearly articulated and prioritised. These may be traditional value for money in the sense of price and quality, as well as wider governmental objectives such as sustainable development, innovation, and the development of small and medium enterprises (SMEs).

***12. Strive for quality and consistency in regulatory systems across levels of government***

Pursue high-quality and coherent regulation across levels of government by evaluating the regulatory framework when establishing investment priorities and programmes. Use co-ordination mechanisms to develop coherent regulation across sectors and levels of government, ensure consistency in application, and avoid duplication. National governments should regularly review the stock of regulation and assess costs and benefits of new regulations, taking into account the costs of compliance for sub-national governments. All levels of government should be aware of and seek to minimise the administrative burden of government formalities for a typical public investment project.

**II.** **INVITES** the Secretary-General to disseminate this Recommendation.

**III.** **INVITES** Members to disseminate this Recommendation at all levels of government.

**IV.** **INVITES** non-Members to take account of and adhere to this Recommendation.

**V.** **INSTRUCTS** the Territorial Development Policy Committee to monitor the implementation of this Recommendation and to report thereon to the Council no later than three years following its adoption and regularly thereafter, in consultation with other relevant OECD Committees.

## Adherents*

**OECD Members**

Australia
Austria
Belgium
Canada
Chile
Czech Republic
Denmark
Estonia
Finland
France
Germany
Greece
Hungary
Iceland
Ireland
Israel
Italy
Japan
Korea
Latvia
Luxembourg
Mexico
Netherlands
New Zealand
Norway
Poland
Portugal
Slovak Republic
Slovenia
Spain
Sweden
Switzerland
Turkey
United Kingdom
United States

**Non-Members**

Colombia
Morocco

---

*Additional information and statements are available in the Compendium of OECD Legal Instruments: http://legalinstruments.oecd.org

## About the OECD

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

The OECD Member countries are: Australia, Austria, Belgium, Canada, Chile, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom and the United States. The European Union takes part in the work of the OECD.

## OECD Legal Instruments

Since the creation of the OECD in 1961, around 450 substantive legal instruments have been developed within its framework. These include OECD Acts (i.e. the Decisions and Recommendations adopted by the OECD Council in accordance with the OECD Convention) and other legal instruments developed within the OECD framework (e.g. Declarations, international agreements).

All substantive OECD legal instruments, whether in force or abrogated, are listed in the online Compendium of OECD Legal Instruments. They are presented in five categories:

- **Decisions**: OECD legal instruments which are legally binding on all Members except those which abstain at the time of adoption. While they are not international treaties, they entail the same kind of legal obligations. Adherents are obliged to implement Decisions and must take the measures necessary for such implementation.

- **Recommendations**: OECD legal instruments which are not legally binding but practice accords them great moral force as representing the political will of Adherents. There is an expectation that Adherents will do their utmost to fully implement a Recommendation. Thus, Members which do not intend to do so usually abstain when a Recommendation is adopted, although this is not required in legal terms.

- **Declarations**: OECD legal instruments which are prepared within the Organisation, generally within a subsidiary body. They usually set general principles or long-term goals, have a solemn character and are usually adopted at Ministerial meetings of the Council or of committees of the Organisation.

- **International Agreements**: OECD legal instruments negotiated and concluded within the framework of the Organisation. They are legally binding on the Parties.

- **Arrangement, Understanding and Others**: several ad hoc substantive legal instruments have been developed within the OECD framework over time, such as the Arrangement on Officially Supported Export Credits, the International Understanding on Maritime Transport Principles and the Development Assistance Committee (DAC) Recommendations.