

**MEMORANDUM OF UNDERSTANDING ON COOPERATION IN THE  
IMPLEMENTATION OF A HIGH LEVEL REPORTING MECHANISM IN THE PROJECT  
OF THE FIRST LINE OF THE BOGOTÁ METRO BETWEEN THE GOVERNMENT OF  
COLOMBIA, BOGOTÁ CAPITAL DISTRICT - BOGOTÁ METRO COMPANY, THE  
ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT AND THE  
BASEL INSTITUTE ON GOVERNANCE**

**1. Parties to the Memorandum of Understanding**

This Memorandum of Understanding (“MOU”) is signed by the **Government of Colombia** (“Government of Colombia”), **Bogotá Capital District - Bogotá Metro Company S.A.** (“Bogotá D.C.”), the **Organisation for Economic Co-operation and Development** (the “OECD”), and the **Basel Institute on Governance** (the “Basel Institute”) (individually a “Party” and together the “Parties”).

**2. Background**

Colombia is committed to the reduction and prevention of corruption and to that end has signed and ratified a number of international treaties including the United Nations Convention against Corruption, the Inter-American Convention against Corruption, and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Government of Colombia has been a pioneer in the development and implementation of the High Level Reporting Mechanism (the “HLRM”), an innovative tool to prevent bribery solicitation by public officials and other suspicious behaviour by public or private actors, usually in the context of public tenders. The HLRM has the purpose of increasing transparency and providing a secure channel for the filing of complaints by the private sector, public officials and citizens in general. It intends to generate early warnings about possible acts of corruption that may affect the transparent allocation of a contract or the bidding process itself, and with that, allowing for administrative decisions that represent efficient solutions and that ensure the transparency and continuity of the contracting processes.

The first pilot of the HLRM worldwide was implemented by Colombia through the National Agency of Infrastructure (ANI, for its acronym in Spanish) and the Transparency Secretariat of the Presidency of the Republic, to guarantee the transparency of the tender process of the *Fourth Generation Road Concessions*. The pilot HLRM has been recognized by business people nationally and internationally as a useful tool and seen as a good practice emulated by other countries in Latin America.

For years the different administrations of Bogota DC have recognized the need to have an integrated mass transit system, in order to guarantee better quality conditions in mobility, boost the growth of the city and promote economic growth and sustainability of the economy in Bogota DC. To this end, the Bogotá D.C. has led the development of

the project for the construction and operation of the first line of the Bogota Metro, which was declared of national strategic importance.

It is in the interest of the Bogotá D.C. to implement best practices at the national and international level related to transparency in the bidding process that will be carried out by Metro de Bogotá S.A. (EMB), for the purpose of construction and operation of the First Metro Line Project of the Bogota Metro. By following these best practices, the Bogotá D.C. seeks to guarantee compliance with current regulations and mitigate the risks of corruption associated with transport and infrastructure projects notably by applying the constitutional and legal principles to prevent and punish acts of corruption in public procurement processes.

For its part, the OECD is an intergovernmental organisation dedicated to the promotion of policies that will improve the economic and social well-being of people around the world. The OECD provides technical expertise and a forum for governments to share experiences and seek solutions to common problems, including corruption.

The Basel Institute is an independent not-for-profit competence centre working around the world with the public and private sectors to counter corruption and other financial crimes and to improve the quality of governance.

The HLRM is a preventive anti-corruption tool conceived jointly by Transparency International, the OECD and the Basel Institute, based on a request from the Global Commercial Community (B20) and the G20 countries, whose leaders have publicly recognised the HLRM as an innovative and collaborative tool among the different stakeholders to prevent corruption (both public and private) and as a means to encourage foreign direct investment and increase confidence in governments.

### **3. Objective**

The Parties recognize the role of the HLRM in the early detection and prevention of corruption and by signing this MOU, the Parties will endeavor to provide their collaboration in the conceptualization, structuring and development of a customized HLRM according to the needs of the First Line Project of the Bogota Metro.

The purpose of this HLRM will be to promote the integrity and transparency of the First Metro Line Project in Bogotá. The HRLM will be designed to allow for the speedy analysis of complaints related to corruption, generating early warnings and a pragmatic and transparent response from the Government, without prejudice to the competences of the competent authorities, guaranteeing the transparency of the tender processes that are being developed and facilitating interactions between public and private stakeholders.

The parties will tend that the HLRM will respond to the needs of the First Metro Line Project of the Bogota Metro, with a view towards preventing of corruption and other

irregular practices. The HRLM, as a non-judicial procedure, will not interfere with the investigation and prosecution of alleged acts of corruption.

The Parties undertake to seek their support for the continuity of the HLRM and its effectiveness in Colombia in the long term, including by exploring the application of the HRLM to other major projects undertaken by Colombia.

All activities executed under this MOU are subject to the inclusion in each of the Parties' respective programmes of work and budgets. They shall be carried out in accordance with their respective rules and practices.

#### **4. Means of Co-operation**

The Parties may co-operate through various means, including, but not limited to:

- Technical assistance;
- Exchange of experience and information;
- Participation in events in accordance with the Parties' respective rules, policies and practices;
- Joint reports;
- Joint communication activities;
- Activities to increase the visibility of the HLRM;
- Support in the conceptualization and design of the HLRM structure and the conditions for its effective functioning; and
- Promoting measures considered relevant to ensure the continuity of the HLRM project in the Republic of Colombia.

#### **5. Costs**

This MOU does not establish financial obligations for any of the Parties. The commitment of each Party, within the scope of this MOU, is subject to the availability of funds for such purposes.

#### **6. Intellectual Property**

The Parties recognise the importance of protecting and respecting intellectual property rights. This MOU does not grant the right to use any work created outside the framework of this MOU, of which one Party is the author or holds the intellectual property rights.

Intellectual property rights over any joint work created by the collaborative activities of the Parties under the MOU of which multiple Parties are authors shall be jointly owned by the Parties who authored that work. Each authoring Party may use and reproduce this work separately, subject to appropriate acknowledgement of the other Party's (or Parties') contribution to the work. Without prejudice to the above, any

translation or joint publication will be subject to a separate written agreement by the authoring Parties.

## **7. Disclosure**

The Parties may disclose to the public this MOU and information with respect to activities carried out under this MOU in accordance with the Parties' relevant policies.

Any sharing of confidential information between the Parties will be subject to their respective policies and procedures relating to the disclosure of confidential information. Each Party will take any action to protect confidential and/or classified information of the other Party.

## **8. Responsibility**

Each Party will be responsible for its activities and for its staff members, including for their acts and omissions.

The Parties acknowledge that the OECD and the Basel Institute will not be involved in any procurement decisions, which remain the sole responsibility of the Bogotá D.C.. The OECD and the Basel Institute shall in no way be held responsible for the manner in which the Government of Colombia and Bogotá D.C. apply the HLRM to the First Metro Line Project in Bogotá or any other project.

## **9. Duration, Amendment and Termination**

This MOU will enter into effect upon signature by the Parties for a period of five years. It may be renewed in writing for further periods of no more than five years.

Amendments can only be made in writing subject to consent by all Parties. Any modification or amendment which has been agreed upon by the Parties shall enter into effect on the date to be determined by the Parties.

The MOU may be terminated by any Party by providing three months' prior written notice to the other Parties. In such a case, the Parties will agree, as appropriate, on the steps to ensure that the activities initiated under the MOU are brought to a prompt and orderly conclusion.

## **10. Status of the OECD**

Nothing in this MOU shall be construed as a waiver of the privileges and immunities that the OECD enjoys as an international organisation.

## **11. Key Points of Contact**

Each Party designates below its representative with overall responsibility for implementing this MOU, including responsibility for formulating work plans for activities to be undertaken pursuant to it:

For the Government of Colombia:

The Secretary of Transparency of the Presidency of the Republic or whoever takes his place.

For the Bogotá D.C.:

Metro Enterprise of Bogotá S.A. – EMB

La Empresa Metro de Bogotá S.A. – EMB – Gerente Manager EMB

La Veeduría Distrital, – Veedor Distrital

For the OECD:

Mr Nicola Bonucci  
Director for Legal Affairs

For the Basel Institute on Governance:

Gemma Aiolfi  
Head of Compliance, Corporate Governance and Collective Action

Signed in English and Spanish. In case of any divergence, the English version shall prevail. This MOU may be executed in any number of counterparts, each of which is an original and all of which taken together form one single agreement.]

<b>Government of Colombia</b>
Mr. Juan Manuel Santos Calderón President of the Republic of Colombia
Date
Signature

<b>Bogotá Mayor's Office</b>
Mr. Enrique Peñalosa Londoño Mayor of Bogotá D.C.
Date
Signature

<b>Bogota Metro Company S.A.</b>
Mr. Andrés Escobar Uribe General Manager
Date
Firma

<b>Organization for Economic Co-operation and Development</b>
Mr Nicola Bonucci Director for Legal Affairs
Date
Signature

<b>Basel Institute on Governance</b>
Mr Oscar Solorzano on behalf of Professor Mark Pieth Board Member
Date
Signature