



Public Procurement Management

Fraud and corruption in public procurement – causes, symptoms and treatment

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Fraud and corruption in public procurement

What is corruption in procurement?

- “The abuse of public or private office for personal gain”
- Bribery
- Collusion
- Coercion

- *Conflict of interest?*

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How much is at stake?

- Procurement: 15-20 % of GDP, 45% government spending (World Bank, OECD)
- Bribery and corruption: < US\$ 1 trillion p.a. (Daniel Kaufmann, World Bank Institute)
- Systemic corruption = 20-30% of procurement (World Bank)

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Causes

- Need/Greed
- *“The fraud triangle”*
- Opportunity
- Pressure
- Rationalization

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3 common perceptions about corruption and procurement

- It is a developing country problem
- There are no real losers
- There is nothing that can be done about it

Fallacies?

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A developing country problem?

- “Politicians and public officials from the world's leading industrial countries are ignoring the rot in their own backyards and the criminal bribe-paying activities of multinational firms headquartered in their countries”
 - Peter Eigen, Chairman of Transparency International, May 2002

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No losers?

- “Corruption is not a charitable game; ‘winners’ have every intention of recovering their bribery costs.”
 - Donald Strombom, former chief of procurement for the World Bank
- *Who pays ...?*

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No losers?

- “Corruption has a major impact in all countries of the world. It undermines democratic accountability, diverts resources away from the public good and into private pockets, and ‘redistribut[es] wealth and power to the undeserving’.”
 - Robert Klitgaard , June 2000

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There is nothing that can be done about it?

- Prevention
- Sanctions

We need to spot corruption to deal with it

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Symptoms - results:

- More expensive procurement
- Lower quality
- Unnecessary projects

all of which mean diversion of funds

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Symptoms - What do corrupt officials do?

- Illegally award contracts
 - e.g. single source procurement
- Distort process (may not be illegal)
 - Commission unnecessary procurement
 - Manipulate choice of procurement method
 - Manipulate qualification/evaluation criteria
- It is not easy to spot legal distortion

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Symptoms – phases of procurement

- Procurement planning
 - Needs assessment
 - Choice of method
- Tender process
 - Specifications, qualification, evaluation
- Contract administration
 - Poor quality accepted/variations
 - Sub-contractors
 - “Pay to be paid”

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Symptoms – examples (bribery)

- Communications with one supplier
- Drafting terms of solicitation to favour one supplier
- Qualification/evaluation criteria to favour one supplier
- Finalising contracts – “negotiations”

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Treatment

- Opportunity (prevention)
 - Legal framework
 - Supporting controls (internal/external)
 - Other issues:
 - Political will
 - Monopolies/competition policy

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Legal framework (1) - United Nations Convention Against Corruption (UNCAC, 2005)

- To prevent and combat corruption
- To provide international cooperation and technical assistance
- To promote integrity, accountability and proper management of public affairs and public property

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UNCAC article 9 requires:

- “appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in **preventing** corruption”
- Sanctions regime

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Legal framework (2) - UNCITRAL Model Law

Procedures based on the UNCAC criteria

- Transparency
- Competition
- Objective criteria in decision-making

These principles also underlie the WTO GPA and other major procurement texts/guidance (OECD, TI, etc)

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Supporting measures (1)

- Risk maps, red flags
- Clear chain of responsibility
- Culture of ethics & integrity
- Real ability to challenge/change
 - Sanctions
 - Press/public that care

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Supporting measures (2)

- Positive role of e-procurement
- Greater transparency, lower cost
- Simplifying processes
- Removal of human interaction
- Code of conduct, integrity pacts, probity plans

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Supporting measures (3)

Positive role of e-procurement (cont)

- Better oversight/control
 - Trend-spotting
 - Integrate procurement, accountability + oversight systems
 - Address all stages of procurement from planning to contract administration

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Supporting measures (4)

- Ethics
 - Morals to guide procurement officials
 - Honesty, integrity, diligence, fairness, trust, respect, consistency
- Probity
 - Evidence of ethics in procurement process
 - Probity management

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Remember the fraud triangle ...

- Pressure?
 - Is the procurement system overloaded?
- Rationalization?
 - Are procurement officials properly paid?
 - Are they recognized as professionals?

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Other issues

- Political will
 - Benefits of better value in procurement
 - Risks of “state capture”
- Monopolies/competition policy
 - Efficiency may dictate ever-larger contracts: risks to SMEs
 - Risks in over-use of framework agreements

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Finally, a note of caution

- Corruption is not the only ill in procurement
- A recent study from Italy indicates that 80% of losses in procurement comes from waste, not corruption
- The costs of fighting corruption need to be considered against the benefits ...

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THANK YOU

**Details of UNCITRAL's work on
procurement**

www.uncitral.org