

Corruption in procurement

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Adam Graycar

Flinders University, Adelaide, Australia

adam.graycar@flinders.edu.au

- In Australia procurement is about 35% of government expenditure
- In OECD countries one third of Govt. procurement is by central government, two thirds by sub-national governments (OECD average)
- In Europe about €120 billion is lost to procurement corruption each year (EC)

Red flags

- Bidding process
- Choosing preferred supplier
- Paying for goods and services
- Delivery of goods and services
- Contract management

The red flags of corruption: Procurement

**FIGHTING
BRIBERY
IN PUBLIC
PROCUREMENT
IN ASIA AND
THE PACIFIC**

Proceedings of the 7th Regional
Anti-Corruption Conference
making international anti-corruption

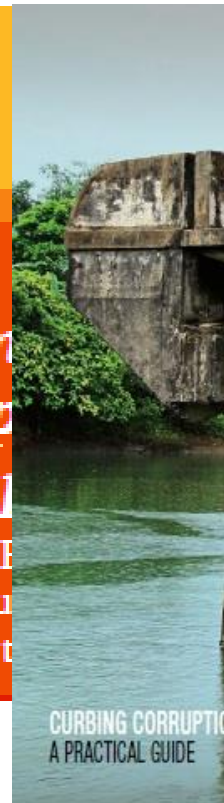
Held in Bali, Indonesia, 5-7 November 2008
Corruption Eradication Commission

Asian Development Bank
Organisation for Economic Co-operation and Development

Preventing Corruption
in Public Procurement

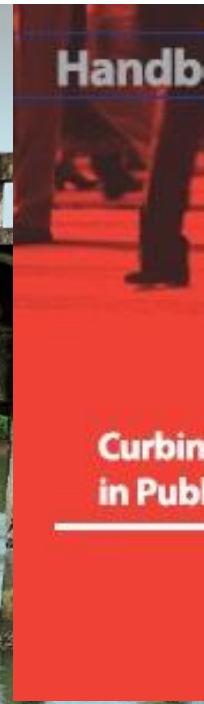
www.pwc.com/au/services

**Public
Procurement
costs we pay
for corruption**
Identifying and Reducing
Corruption in Public
Procurement in the Asia-Pacific Region



**CURBING CORRUPTION IN PUBLIC PROCUREMENT
A PRACTICAL GUIDE**

Nations Convention against Corruption
Second session
Nusa Dua, Indonesia, 28 January-1 February 2008



Handbook

**Curbing
Corruption
in Public
Procurement**



UNODC

United Nations Office on Drugs and Crime

Guidebook on anti-corruption in public procurement
and the management of public finances

Good practices in ensuring
compliance with article 9
of the United Nations
Convention against Corruption

**OECD Principles
for Integrity in Public
Procurement**

**United Nations Convention against Corruption:
implementing procurement-related aspects**

Submitted by the United Nations Commission on International
Trade Law

Corruption types in procurement

- Bribes
- Rigging pre-tender conditions
- Rigging project scope and requirements
- Rigging bids
- Rigging selection process
- Submitting or approving false invoices
- Managing project with great laxity or corruptly
- Using specialised knowledge to shape procurement
- Creating conditions for a particular vendor
- Delivering inferior product
- Cartel behaviour
- Pay to play
- Worming the system

Activity context

- No laws or regulations
- Weak laws or regulations
- Good laws or regulations that are circumvented
- Self dealing
- Trusted individual acting alone
- Initiated by public servant
- Initiated outside public service
- Group dynamics
- No public service involvement at all

Procurement Types

- Standard
- Customised
- Intangible
- Complex
- Incomparable

Items that can be benchmarked easily

- Pencils
- Laptops
- Vehicles

etc

Standard

Corruption risks

- Tailoring supplier eligibility criteria
- Favouring certain suppliers
- False invoices
- Inferior substitution
- Undersupplying quantities
- Post supply servicing
- Fixed v variable contracts

Customised

Standard products adapted for special purposes

- special IT systems;
 - police or ambulance vehicles;
 - health or human services
 - Training
 - Debt collection
- etc

Corruption risks

- Unrealistic specifications that favour only one supplier
- Provider can bamboozle public servant with unique offerings and inflate price, excess of which can be shared
- Supervisor difficulties
- Inadequate specifications can allow supplier interpretations

Product that cannot easily be measured and deliverables not standardised

- Consultancy services
- Research activities
- Legal services
- Intellectual property
etc

Intangible

Corruption risk

- Favouring particular consultants
- Contriving consultancies about unimportant things, or things which could be done in-house
- Inflating consultancy/research prices
- Incompetent/ absent supervision

Complex items that require expertise managing different professions and processes

- Major infrastructure projects e.g roads, ports, airports, urban renewal

Complex

Corruption risks

- “road to nowhere”
- Bid rigging
- Cartel behaviour
- Supervision difficulties
- Delayed rewards (ex minister joins board)
- Political and infrastructure goals differ

All procurement types (1)

- Shaping criteria for eligible bidders
- Providing information inconsistently or selectively
- Allowing (non-transparent) late submissions
- Manipulating assessment criteria for tenders

All procurement types (2)

- Scoring bids subjectively or unfairly
- Ignoring or abusing standard procurement rules and processes
- Significantly changing terms of contract after it has been awarded

Crude data 1

- Since 1988 NSW ICAC has held about 172 hearings
 - 23% were procurement related
- Of these two thirds fell within three sectors
 - Transport 26%
 - Education 19%
 - Local government 17%

Crude data 2

In three quarters of cases initiator was a public servant; In one quarter, a private person/ company

Three quarters were “lone wolf” public service perpetrators; One quarter in conjunction with others

Three quarters (76%) involved a senior public servant only; One sixth (16%) had senior and junior public servants involved. (Remainder unclear)

Most common behaviours

<p>Issuing and/ or approving fraudulent invoices, false receipts, dummy quotes and / or certifying or falsifying documents for assumed legitimate purposes</p>	<p>55%</p>
<p>Disclosing commercially confidential information to private companies owned by preferred contractors (or themselves / relatives) and / or helping contractors with their bids / tenders.</p>	<p>36%</p>
<p>Concealing undersupply and / or keeping quiet while preferred contractors overcharged department</p>	<p>9%</p>

Benefits

- The individual benefits financially
- The individual does not benefit financially, but receives gifts and other perks (that they would not otherwise buy)
- The individual does not benefit immediately but sets up something for later
- The individual does not benefit at all, but does it for the company or for a cause

Losses

- Less than \$100,000 16%
 - 100,000 to \$1million 40%
 - \$1m to \$5m 26%
-
- Almost one third of the cases involved no clear bribe or kickback to the public official. These involved steering contracts and work to friends, associates or families
 - Some people became romantically involved, and misused their position to impress or benefit their prospective partner or their partner's family

Opportunity structure

- motivated offender,
- a target
- absence of a capable guardian.

Guardianship 1 (trust)

- Three quarters involved senior officials who were trusted by colleagues and subordinates
- Corruptors were 'entrusted' officials who were often given absolute control and delegation over key procurement processes. The lack of active checks and balances on daily operations provided an opportunity for corruption.

Guardianship 2 (accountability)

- Lack of leadership often resulted in a dominant organisational culture within which public accountability was not valued.
- Confusion and lack of organisational clarity and purpose, as well as inadequate rules and guidelines, created opportunities
- Leadership failures were apparent where experiences and lessons from earlier corruption investigations were ignored

Guardianship 3 (conflict of interest)

- Private business arrangements of public servants
- Rent seeking by powerful and sophisticated outsiders, and conflict of interest internally
- Whistleblower protection

Opportunities

System failure

Lack of adequate rules

- Insufficient rules
- Insufficient processes
- Insufficient checks and balances
- Insufficient knowledge

System weakness – failure to apply existing rules

- Insufficient monitoring
- Bypassing rules
- Failure to meet organisational responsibilities
- Weak culture

Slippage

Slippage points

- Culture
- Due Process
- Temptation
- Managerial incompetence/
wilful disregard
(Dobel)

Analysis of slippage

- Conditions
- Processes
- Detection
- Prevention

Slippage matrix

	Conditions	Processes	Detection	Prevention
Due Process				
Temptation/ easy benefits				
Managerial incompetence/ wilful disregard				

Slippage example

	Conditions	Processes	Detection	Prevention
Due Process	"anything goes" attitude	No regard for conflict of interest	Complaint received	exposure and prosecution
Temptation / easy benefits	valuable contracts and equipment	Manipulation of processes for gain	ICAC	Transparency/ adherence to process/ Recognise risks
Managerial incompetence / wilful disregard	management unaware/ felt they were above scrutiny/ Inbred and tired	Processes violated with impunity	Regular audit did not detect; external audit discovered breaches	Whistleblower/ Accountability & oversight

Responses

- Identify slippage points
- Appropriate oversight and compliance
- Strengthen culture of integrity
- Tailor to risk profile and nature of agency

Risks?

- What if government gets it wrong?
- Should contractors assist in, or determine specifications?
- How much discretion for negotiators?

Setting the framework

- Trust
- Accountability
- Conflict of interest

Thank you

Any questions?

adam.graycar@flinders.edu.au