



Procurement Fraud and Corruption

PRESENTED BY

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Procurement fraud

Definitions

Fraud

Fraud is generally defined in the law as an intentional misrepresentation of a material existing fact made by one person to another with knowledge of its falsity and for the purpose of inducing the other person to act, and upon which the other person relies with resulting injury or damage.

Fraud may also be made by an omission or purposeful failure to state material facts which nondisclosure makes other statements misleading.

Procurement

Procurement refers to those processes, procedures and entities involved in the purchase of goods and services by public and private entities.

Procurement methods as per PPDA of 2005

Section 73 – Restricted Tendering

Section 74 – Direct procurement

Section 76 – request for proposal

Section 88 - Request for quotations

Section 92 – specially permitted procurement
procedure.

Phases in the procurement process

Phases of procurement using open tendering

Procurement process that employ competitive bidding can be reduced to four phases;

1. Presolicitation phase
2. Solicitation phase
3. Bid evaluation and award phase
4. Post-award and administration phase

Presolicitation phase - frauds

1. Need recognition
2. Bid tailoring
 - Narrow specifications
 - Broad specifications
 - Vague specifications
3. Bid splitting
4. Unjustified method of procurement
5. Change order abuse

Solicitation phase-frauds

Bid manipulation

Leaking bid data

Collusion among contractors

- Complementary bids
- Bid rotation
- Bid suppression
- Market division

Defective pricing schemes

- Inflating costs

Bid evaluation and award - frauds

Bid manipulation

Leaking data

Compromising evaluators

Post-award and administration phase

1. Non conforming goods or services
2. Change order abuse
3. Cost mischarging
 - Accounting mischarges
 - Labour cost mischarges
 - Material mischarges

Categories of procurement fraud schemes

Collusion among contractors

Competitors in the same market collude to defeat competition or inflate prices. The schemes are;

Complementary bidding

This is also known as protective, shadow or cover bidding. Competitors submit token bids that are not serious to win a tender. The tricks involved are;

- Bids that are too high to be accepted.
- Competitive prices but intentional poor technical bids
- Bids with special terms that are not acceptable with the buyer.

Bid rotation

This is also known as bid pooling. Two or more suppliers conspire to rotate the bid among themselves. Bid winners also award subcontracts to losing bidders.

Market Division

Competitors divide the market according to geographic region or customers. Competing firms will not bid against each other in those regions.

Red flags of Collusion

Industry has limited competition

The same contractors' bid each product or project

The winning bid appears too high

Qualified contractors do not submit bids

Winning contractors submits bids to losing bidders

When a new competitor enters the competition bid prices fall drastically

The last party to bid wins the contract

Bids that look similar on paper, font, colour, spelling mistakes, printing etc.

Rotational pattern of winning bids

Collusion between contractors' and employees

The perpetrated schemes depends with the employees influence. The more power a person has on the bidding process the more likely he can influence the tender award. Procurement scheme included are;

- Need recognition
- Bid tailoring
- Bid manipulation
- Leaking bid data
- Bid splitting
- Unjustified sole source awards or other noncompetitive methods of procuring

Red flags of need recognition

An employee convinces his employer of a need to procure excessive goods or services. Purchasing entity employee receives a bribe or a kickback. Red flags are;

- Materials not procured at the optimal reorder level
- Huge write offs as scrap or obsolesces
- Need that can only be met by a certain manufacturer or supplier
- Failure to develop a list of back-up suppliers
- A certain employee life style
- Multiple purchase that fall below the legal threshold are present
- Purchases with missing GRNs and other receiving reports

Bid tailoring red flags

Bids tailored to meet specifications of a particular supplier.

Unreasonably narrow or broad specification

No clear bid submission information.

Specification done together with supplier

Corruption

Corruption

Corruption schemes make up 37% of the reported fraud cases, with a median loss of \$200,000, according to the 2014 *Report to the Nations on Occupational Fraud and Abuse*. Those often devastating effects, combined with a dramatic increase in the number of enforcements, have made bribery and corruption a key issue for many global organizations.

Corruption - definition

Corruption refers to the wrongful use of influence to procure a benefit for the actor or another person, contrary to the right or duty of others.

Corruption takes the following forms;

- Bribery
- Kickbacks
- Illegal Gratuities
- Economic extortion and
- Collusion

NOTICE

**IF YOU FAIL TO BRIBE
THE RIGHT PERSON,
YOU WILL BE PROSECUTED
IN A COURT OF LAW.**

No one is above the law.*

***Unless otherwise specified.**

Propaganda Times®

Forms of corruption

Bribery

Bribery constitutes a crime and is defined by *Black's Law Dictionary* as the offering, giving, receiving, or soliciting of any item of value to influence the actions of an official or other person in charge of a public legal duty.

Kick Back

Kickback is a form of negotiated bribery in which a commission is paid to the bribe-taker as *a quid pro quo* for services rendered. Generally speaking, the remuneration (money, goods, or services handed over) is negotiated ahead of time. The kickback varies from other kinds of bribes in that there is implied collusion between agents of the two parties, rather than one party extorting the bribe from the other. The purpose of the kickback is usually to encourage the other party to cooperate in the illegal scheme.

Forms of corruption

Legal Gratuities

These are items of value given to reward a decision after it has been made. The gift is usually made as a thank you for something that has been done.

Economic extortion

This is obtaining of property from another, with the other party's consent induced by wrongful use of actual or threatened force or fear. The official demands money or some other consideration to make a business decision.

Collusion

An agreement between two or more individuals to commit an act designed to deceive or gain an unfair advantage.

Definition of corruption as per the economic crimes act

Corruption means

- (a) an offence under any of the provisions of sections 39 to 44, 46 and 47;
- (b) bribery;
- (c) fraud;
- (d) embezzlement or misappropriation of public funds;
- (e) abuse of office;
- (f) breach of trust; or
- (g) an offence involving dishonesty;
 - i) in connection with any tax, rate or impost levied under any Act; or
 - (ii) under any written law relating to the elections of persons to public office;

Methods of making corrupt payments

- Gifts travel and entertainment

- Wine liquor
- Clothes and jewellery
- Sexual favours
- Lavish entertainment
- Paid holidays

- Cash payments

- Cheques and other financial instruments

- Hidden interest eg. In a joint venture or other corporation, through straw nominee or individual agreement.

Methods of making corrupt payments

. Loans in the following forms;

- A legitimate loan guaranteed by a corrupt third party
- A legitimate loan made on favourable terms e.g. interest free, no collateral etc.
- An outright payment falsely classified as a loan

. Use of credit card or payment of credit card debt.

. Transfers at values lower than the market value.

. Promises of favourable treatment. Examples are;

- Promise of future employment.
- Employment of immediate family members

Why is it difficult to detect procurement fraud?

Procurement fraud is committed by employees who understand the procurement very well. It usually involves an insider and a supplier

- Signing off duplicate or inflated invoices and taking a cut
- Accepting goods below the required standards
- Purchasing goods for personal use
- Related-party transactions
- “Commission” payments and bribery
- Conflict of interest

How corruption influences the procurement process

Contracts involve a purchaser and a seller. Each has many ways of corrupting the procurement process at any stage. Suppliers can;

- ▶ Collude to fix bid prices;
- ▶ Promote discriminatory technical standards;
- ▶ Interfere improperly in the work of evaluators; and
- ▶ Offer bribes.

Corruption Influences On The Procurement Process

Before contracts are awarded, the purchaser can:

- Tailor specifications to favour particular suppliers;
- Restrict information about contracting opportunities;
- Claim urgency as an excuse to award to a single contractor without competition;
- Breach the confidentiality of supplier offers;
- Disqualify potential suppliers through improper prequalification; and
- Take bribes.

Questions

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Thankyou



Services Offered

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