

# *Contracts and Procurement fraud*

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# OUTLINE



1. Introduction to Fraud
2. Procurement Fraud
3. Red flags : Procurement
4. Contract Fraud
5. Red flags: Contract
6. Strategies for Prevention

# What is Fraud?



Fraud is an intentional deception made for personal gain in order to obtain unauthorized benefits (money, property, etc.)

- A representation about a material fact, which is false
- Made intentionally, knowingly, or recklessly
- It is believed by the victim
- And acted upon by the victim
- To the victim's detriment

# Contract and Procurement Fraud



Procurement systems are collections of processes, procedures and entities involved in the purchase of deliverables by public or private entities.

It is important to achieve the best value for money, and thus combating fraud in procurement practices enhances the effectiveness of that whole process.

This is done by observing the basics of contract law, and if fraud occurs, breach of contract proceedings can be used to reverse the damage from fraud.

# Methods of Procurement



- Competitive Bidding (Sealed Bids)
- Contracting by Negotiation (Competitive negotiation through RFPs or RFQs, Sole-source Contracting]
- Simplified Acquisition procedures (Charge accounts, Purchasing cards, Purchase orders, Petty cash funds)

# Types of Procurement Fraud



**Presolicitation phase:** Need Recognition, Bid tailoring, Bid splitting, Change order abuse, Unjustified methods.

**Solicitation phase:** Bid manipulation, Leaking bids, Collusion(bid rotation, suppression, market division, complementary bids), defective pricing.

**Bid evaluation phase:** Bid manipulation, Leaking bids

**Post Award:** Non-conforming goods and services, change order abuse, cost mischarging.

# Red flags : Procurement Fraud



- **Bidding:** Subcontraction to losing/non bidders, poorly prepared bids, consistently high bids, high winning bid, similar contractors on all categories
- **Need recognition:** Underdeveloped assessments, no backup suppliers, single sourced products, sudden financial prosperity in the employees



# Red Flags: Procurement Fraud

## cont'd



- **Bid tailoring:** Weak bid controls, similarities in bid specifications and contractors deliverables, high number of competitive awards to one contractor, no rebids even when the minimum number of bids isn't met
- **Bid manipulation:** Use of obscure publications, accepting late bids, premature bid opening, adding of new vendors with no reason, altering bids
- **Bid splitting:** unjustified split purchases that fall just under upper level review limits, sequential purchases.
- **Leaking bids:** weak controls, false documentation submissions, last bidder wins, unnecessary rebids



# Why Procurement is a fraud wet area



- **Presence of opportunities:** Weak internal controls, insufficient deterrents, lack of authoritative presence
- **Rationalization:** “Everybody gets to eat”
- **Pressure:** External expectations/factors

# Contract Fraud



**A contract** is defined as a written or spoken agreement, that is legally enforceable.

# Elements of a Contract



- Must have a lawful subject matter or objective
- Entered by competent parties
- Intent to be legally bound
- Agreement between the parties of the terms set out
- Legal consideration
- Must be in a form permitted by law

# Contract Fraud & Contract Fraud Schemes



**Contract Fraud** is defined as the wilful misrepresentation of an agreement with an aim of obtaining an opportunity, or receiving payment on false pretenses.

It occurs in two ways:

- **Fraud in the inducement:** It exists in relation to the whole contract
- **Fraud in the factum:** It exists in relation to a particular fact

# Internal Audit's Role in Preventing and Detecting Procurement Fraud



- Identify and assess risks of material misstatement of financial statements
- To obtain sufficient appropriate audit evidence about assessed risks of material misstatement, and designing and implementing appropriate responses
- To respond appropriately to identified and suspected fraud
- To enhance existing controls to deter fraud

# Third Party Relationships and Associated Fraud



Third party relationships are the riskiest part of any transaction as fraud occurs here more easily than most.

This includes:

- **Fraud by the third party's principals:** False invoices, over-quoting
- **Data breaches:** Information on internal controls, and private company information for ill gains

# Strategies for Fraud Prevention



- Use of independent audits
- Strengthening internal controls
- Effective Reporting Systems
- Hire professionals
- Create a Corporate culture



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THANK YOU GOD BLESS

