



Fighting Bribery in Public Procurement: the work by the OECD

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TOPICS TO BE COVERED

- I. OECD fights corruption
- II. The OECD Anti-Bribery Instruments
- III. Typology on bribery in public procurement
- IV. Key Findings of the typology
- V. Conclusion

I. The OECD Fights Bribery and Corruption

- Misallocates scarce public resources, Undermines development, Distorts competition & Prevents democratic development
- Companies domiciled in State Parties are exposed to solicitation and to the temptation to pay bribes to secure business
- OECD takes a multidisciplinary approach to
 - * Reduce the flow of corrupt payments
 - * Promote policy change
 - * Set high standards for global governance



II. OECD Anti-Bribery Instruments

1. *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*
2. *1997 Recommendation of the Council on Combating Bribery of Foreign Public Officials in International Business Transactions and*
3. *1996 Recommendation of the Council on the Tax Deductibility of Bribes to Foreign Public Officials*



THE OECD 1997 Convention

- 1997: Signature ; February 1999: entry into force
- **37 Countries have ratified** i.e. 30 OECD countries as well as Argentina, Brazil, Bulgaria, Chile, Estonia, Slovenia, and South Africa,
- Open to accession

GENERAL FEATURES OF THE OECD CONVENTION

- Criminalise the supply of bribery of foreign public officials i.e. the giving, promising, offering of a bribe (tangible or intangible)
- Criminal and Non-Criminal Provisions, including on
 - transparency and bribery prevention in public procurement
 - sanctioning through debarment from public procurement
- Necessity to adopt implementing legislation (not a self-executing treaty) according to « *Functional Equivalence* »
- Systematic monitoring by OECD Working Group on Bribery of Parties implementation and enforcement

10 years after adoption of the OECD Anti-Bribery Convention

- Important changes to national anti-corruption laws in every Party to the Convention
- Marked increase in the number of foreign bribery investigations and prosecutions

III. OECD Typology on bribery in public procurement

**Typologie =
decomposition of an offence into a series of constituents**

- Public procurement is an important economic area for all countries – 15% of GDP and above
- Media reports on bribery allegations lead to believe that public procurement contracts lend themselves to bribery
- Need to better understand the different aspects of this criminal activity
- Experts from 12 countries and international organisations - with different qualifications - discussed anonymised cases

IV. Key findings of the typology

- Public Procurement = a long and complex process where corruption can occur at all different phases
- Image of legitimacy to mask the irregularities
- No economy and no sector are free from risks
- Appears in association with other crimes

To fight corruption you need to introduce an arsenal of measures

Prevention

- Adequate legal frameworks
- Public notice and transparency
- Training procurement personnel
- Integrity measures
 - Clear lines of responsibility
 - Four eyes principle
 - Rotation of staff
 - Defining ethical standards
 - Integrity pacts

Accountability and control

- Internal controls
- External controls
 - External audit
 - Forensic auditors
 - Public scrutiny (public oversight bodies; parliamentary controls; direct social controls)

Detection

- Red Flags
- Reporting and recourse mechanisms
- Teamwork

Investigation and Sanctions

- Application of regulations & sanctions
- Multidisciplinary investigations
- International harmonisation and co-operation

Use of the typology

- Strengthen anti-corruption & procurement laws and systems
- Awareness-raising & Training material for both procurement and law enforcement agencies

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“Bribery in Public Procurement: Methods, Actors and Counter-Measures”

V. Conclusion

- Fighting bribery is one of the OECD priorities
- The OECD Convention has brought about important advances in the global fight against bribery but many challenges remain
- Other international anti-corruption instruments exist which link the fight against corruption and public procurement leading to further changes
- Prevention and transparency are essential; effective enforcement of a clear regulatory framework is key



For More Information

www.oecd.org/bribery