

Reinforcing Infrastructure Development in Iraq

Session 6: Integrity tools for Public-Private Procurement

30 April 2010

TOPICS TO BE COVERED

- I. Key considerations regarding public procurement
- II. Key consideration regarding Iraq
- III. Bribery Risks in public procurement
- IV. Tools to enhance integrity in public procurement
- V. Considerations regarding Iraq



Key considerations regarding public procurement

- Public procurement is an important economic area for all countries
 - 15% of GDP OECD average – well above in less developed countries
- Public procurement contracts lend themselves to bribery = 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



Public Procurement rules and procedures

- No real difference between public and private contracts methodology but difference in use of funds
- The laws or regulations on public procurements are to:
 - Increase competition,
 - Increase transparency in the decision process,
 - Facilitate the task of the buyers,
 - Obtain the best quality/price ratio,
 - Reduce the risks of errors of the buyers...

**Need clear procurement rules and procedures
&
Bribery needs to be an underlying consideration**

- Absence of clear procurement rules;
- Unclear regulations which are always changing
- Ignorance of procurement procedures
= unwillingly or purposely lead to corruption

II. Key consideration regarding Iraq

- Multitude of legislation and complementary rules & regulation
- Independent institutional arrangements & coordination/verification
- Conflict of interest in the civil service
- Difficulties in the formulation of tender specification
- Collusion and breach of confidentiality
- Process of remuneration of contractors & payment of contracts
- Limited domestic resources:
 - Need to develop the private sector
 - Need to train officials involved in public procurement

III. Bribery Risks in PP

At the stage of the tendering process:

- Identification of needs & design of tenders
- Selecting a business
- Bidding procedure
 - *Non-competitive bidding;*
 - *Framework contracts;*
 - *Competitive bidding.*
- Contract Award
- Contract Execution



All economies and sectors are at risk

Contract size : large contracts versus subdivided projects

- High risks associated with sectors/projects for which evaluation and cost comparisons are difficult (information asymmetry).

This is generally the case for vast, highly centralised, capital intensive new projects involving high technologies or sophisticated materials.

- Smaller-sized contracts may result in high amounts when added together

Services: subjectivity and discretion leading to single source contracts.



Bribery and Corruption are not alone

Bribery and Corruption come in association with:

- ❖ Money Laundering
- ❖ Tax evasion
- ❖ Accounting crimes
- ❖ Fraud
- ❖ Collusion
- ❖ Political Party Financing
- ❖ Conflict of Interest
- ❖ Organised crime and blackmail

Tools to enhance integrity in PP

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

Investigations and Sanctions

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



Proposal to enhance integrity in public procurement in Iraq

OECD can assist in:

- increasing awareness of the commitments deriving from international obligations to engage in anti-corruption actions and policies in public procurement
- Enhance knowledge of measures and tools to prevent corruption through:
 - Exchanges among experts on concrete ways to strengthen procurement systems
 - Provide awareness-raising & Training materials

Tools to prevent, detect and investigate bribery

- Integrity tools aimed at public procurement (including integrity pacts but also transparency, good management, accountability and control tools and criteria)
- Risk assessment of corruption challenges in public procurement
- Development of detection indicators or “red flags”