



The Role of Government in Regulating Public Procurement

Strengthening Integrity in the Private Sector in Iraq: Public Procurement
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- I. Typology on bribery in public procurement
- II. Key Findings of the typology
- III. III. Proposal to enhance integrity in public procurement in Iraq

Typologie = decomposition of an offence into a series of constituents

- 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

- 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

- No real difference between public and private contracts methodology but difference in use of funds
- The laws or regulations on public procurements are not made for fighting corruption but 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...

- Absence of clear procurement rules; unclear regulations, ever-changing regulations
- Ignorance of procurement procedures may unwillingly or purposely lead to corruption

= Need clear procurement rules and procedures with bribery as one of the fundamental concerns

Corruption risks at the stage of:

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

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 come in association with:

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

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

- Multitude of legislation and complementary rules & regulation
- Institutional arrangements & coordination/verification
- Conflict of interest in the civil service
- 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

- 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

- Integrity tools aimed at public procurement (including integrity pacts)
- Risk assessment of corruption challenges in public procurement
- Development of detection indicators or “red flags”