

The basics of integrity in procurement

A guidebook

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1 Introduction

This guide will give an overview of central issues on anti-corruption and procurement. Practitioners can use the guide to get a basic understanding on how corruption might occur in procurement, why mitigating corruption in procurement is important, where the risks are and how to address the risks. Awareness of corruption risks in procurement is important, because corruption can occur at any point in the procurement cycle and is not always easy to detect. A large percentage of the total government expenditure passes through government procurement systems, and the risk of mismanagement and corruption is high if the processes are not structured and managed in a transparent, accountable and professional manner. Extra vigilance is therefore required when assessing the level of corruption risk in procurement. Many country procurement systems are fundamentally sound in terms of their basic organization and procedures. However weaknesses in execution, compliance, monitoring and enforcement are commonplace. This and the often high levels of corruption associated with the procurement function contribute to a lack of donor confidence in country procurement systems. Still, development partners are committed to use country systems to the greatest extent possible, through the promises made in the Accra Agenda for Action in 2008 and the Paris Declaration on Aid Effectiveness in 2005 (see box below). This will potentially expose donors to increased levels of fiduciary risk including the risk from corruption. Donor agency staff need tools and guidance to keep them alert to this risk, help them assess the level of risk and to be able to devise appropriate safeguards which will allow them to work with partner country systems while providing the desired levels of protection against corruption.

This guide aims to give an introduction to the basics of anti-corruption thinking in procurement. Organisations such as OECD, Transparency International, the World Bank and the UN together with researchers and institutions provide anti-corruption and integrity advice for procurement officers, and we have gathered the general knowledge and advice from these guides into one short beginner guide.

The basic questions answered in the guide are:

- What is procurement and corruption?
- Why and how does corruption occur in procurement?
- Why is it important to prevent corruption in procurement?
- What are the main risks at all stages of the procurement process?
- What are the main mitigating strategies at all stages of the procurement process?
- Where can you find more information?

Chapter 2 will answer the two first questions raised above providing the basic knowledge on corruption in procurement and why this is an important issue. Chapter 3 gives an overview of the most common risks of fraud and corruption. Chapter 4 follows with examples of strategies for mitigating corruption, and the practitioner is encouraged to be proactive in their work against corruption. The risks and mitigation strategies are summarised in a table at the end of the report.

The Paris Declaration on Aid Effectiveness on Procurement

Strengthen national procurement systems (2005)

Partner countries and donors jointly commit to:

- Use mutually agreed standards and processes to carry out diagnostics, develop sustainable reforms and monitor implementation.
- Commit sufficient resources to support and sustain medium and long-term procurement reforms and capacity development.
- Share feedback at the country level on recommended approaches so they can be improved over time.

Partner countries commit to take leadership and implement the procurement reform process.

Donors commit to:

- Progressively rely on partner country systems for procurement when the country has implemented mutually agreed standards and processes.
- Adopt harmonised approaches when national systems do not meet mutually agreed levels of performance or donors do not use them.

Accra Agenda for Action (2008)

Donors agree to use country systems as the first option for aid programmes in support of activities managed by the public sector.

Should donors choose to use another option and rely on aid delivery mechanisms outside country systems (including parallel project implementation units); they will transparently state the rationale for this and will review their positions at regular intervals. Where use of country systems is not feasible, donors will establish additional safeguards and measures in ways that strengthen rather than undermine country systems and procedures.

Sources: The Paris Declaration on Aid Effectiveness and the Accra Agenda for Action (OECD, 2005, 2008)

2 The basics of procurement and corruption

Corruption may arise in any step of the procurement procedure. Corruption can arise through violations of ordinary procurement rules or through misuse of legal authorization of discretionary decisions from the rules (Schultz & Søreide, 2006). Many practices have an unclear legal status.

Public procurement is particularly vulnerable to corruption due to the high level of funds involved. As an example of how central procurement can be for the national economy Uganda used 70 percent of their total expenditure on procurement in 2006. Globally government expenditure on procurement is estimated to be between 12 and 20 percent (OECD, 2006b). A large part of health and education expenditure is used for procurement of goods and services; one general estimate is that between 20 and 50 percent of government health expenditure is spent on procurement of drugs (U4, General overview).

Public procurement is the main area where the public and the private sector cooperate financially. Furthermore, public procurement tends to involve relatively few, but high-value transactions. Compared to sectors with low-value and a high number of transactions the procurement officers thus have more to gain on corrupt behaviour (Ware et al., 2007).

Definitions of public procurement and corruption

Public procurement refers to all acquisitions of goods and services by public institutions in a country, and concerns contracts between the government and the private in many different areas such as health services, the military and construction. Reliable procurement practices will transform funds into hospitals, schools and roads. Since procurement accounts for such a large part of public resources it is important that the procurement process occurs in an accountable, transparent and well-managed manner.

Corruption and inefficient procurement decrease the benefits public resources otherwise could have delivered to citizens, and also lower the level of trust and confidence in governments. **Corruption** is commonly defined as the “(...) **abuse of public funds and/or office for private or political gain.**” (World Bank, 2009).¹ While the definition of corruption given above refers to interaction between the public and the private, it is important to keep in mind that corruption also occurs among private sector parties. Transparency International’s definition of corruption “**the abuse of entrusted power for private gain**”² also includes actions of private actors.

It may be useful to distinguish between administrative or bureaucratic corruption, and high level or political corruption.

- **Bureaucratic corruption** may be defined as corruption in the public administration. This type of corruption is often considered low level, and can be encountered daily by citizens and firms in contact with public administration, police, customs and so on

¹ Many different definitions of corruption exist. For a discussion see Thomas & Meagher (2004); Jain (2001); Aidt (2003); Andvig et al., (2001).

² Transparency International: http://www.transparency.org/news_room/faq/corruption_faq

(Andvig et al., 2001). One might be required to pay a fee, a facilitation payment, in order to procure or speed up the provision of services. One may be entitled to these services, but one must pay a bribe in order to get hold of them.

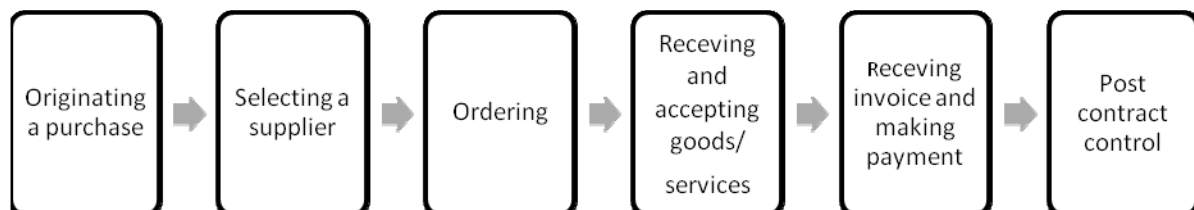
- **Political corruption** is considered to be high level, and more serious than petty corruption. Political corruption occurs when politicians at the highest level of political authority are corrupt. They are at liberty to change and implement the laws in the name of the people (Andvig et al., 2001). Politicians may be provided illicit favours in order to for them to influence the formulation of laws, regulations and policies, in a manner which will give advantages to a particular group (Thomas & Meagher, 2004).

The procurement cycle

The **procurement cycle** consists of the steps that a procurement officer needs to go through in order to fulfil the task of purchase goods or services. The procurement cycle includes several stages. First, one needs to identify what goods or services that are needed by the government. Second, one must determine who would be the best supplier of the goods or services. Third, one must ensure that the goods or services are delivered at the right time, with the promised quality, and for the best price. These three stages must be done in a fair and open manner, competitively, effectively and efficiently (World Bank, 2007).

Procurement processes are complex and they can be implemented in different ways. Below are two illustrations. The first figure shows the cycle of procurement where the service or product can be obtained without a tender. The second figure shows the procurement cycle where several suppliers are asked to tender for the contract.

Figure 1: Procurement without a tendering process



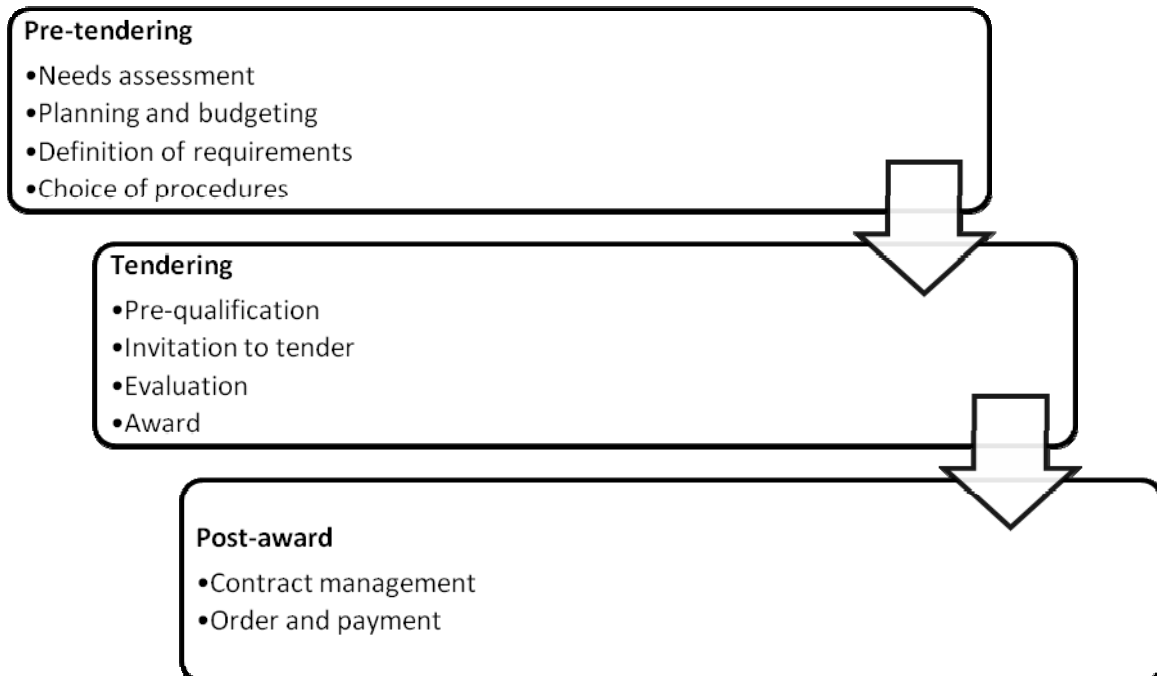
Source: Procurement Guide for Managers (CPS, 2009)

The procurement cycle when the purchase is not subject to tender consists of the three main steps described above. This procurement cycle is referred to as non-competitive as firms do not compete for the contract, but a supplier is rather chosen directly by the procurement officer. This type of procurement cycle is most common when the value of the goods and/or services need is small.³ As an example, Cambodia has a limit of USD 12,500 when competitive bidding becomes mandatory (ADB/OECD, 2006:33), and in other countries the limit could be lower. In this guide we will however focus on situations when the

³ There are guidelines for when non-bid contracts can be awarded, see for instance: <http://www.sru.edu/PAGES/759.asp>

purchase is on tender, because we argue that well-managed competitive bidding is the best way to curb corruption in procurement.

Figure 2: The procurement cycle when the purchase is out for tender



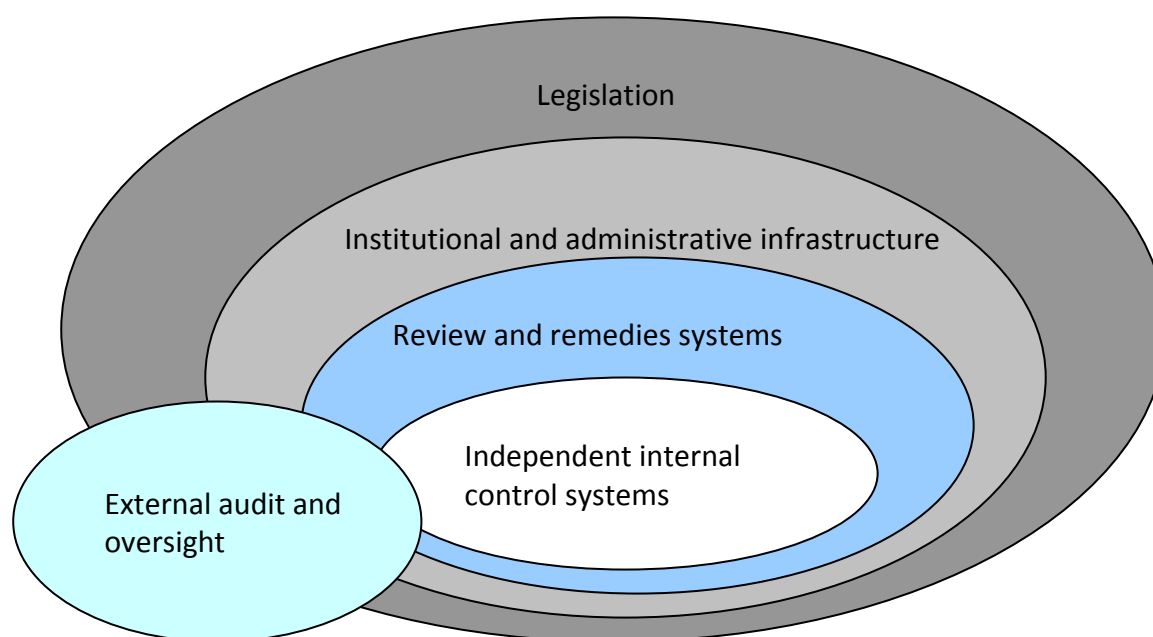
Source: OECD Principles for Integrity in Public Procurement. Organisation for Economic Co-operation and Development (OECD, 2009b:52)

The procurement cycle when the purchase is on tender consist of three main parts: pre-tendering, tendering and post-award. During the pre-tendering phase the government's need for goods and/or services is assessed, a decision on what to purchase is made, and a budget for the planned purchase prepared. Furthermore, the tender documents are prepared with all the necessary requirements defined. During the tender phase a procurement notice is published, the bidding documents are issued and proposals are requested. Then bidders submit a proposal to the procurement officer, which will subsequently be evaluating all the proposals and decide on the award of the contract. During the post-award phase the winning bidder must provide the procurement officer the agreed goods and services according to the conditions and timing agreed in the contract.

The framework for procurement

The framework for a procurement process is important for the level of risk for corruption, and a transparent, accountable and well managed structure will mitigate the risks. The overarching picture is made up of five main points. First, **legislation** which covers the entire procurement cycle and all the involved actors creates the overall framework for how to operate. Second, **institutional and administrative infrastructure** in the country poses restrictions on how to structure the procurement process. Ideally staff roles should be clearly separated between financial and procurement authorities to ensure propriety. Third, effective **review and remedies systems** are necessary to detect and correct irregularities. Fourth, **independent internal control systems** are crucial to strengthen integrity and detect corruption or fraud. Fifth, **external audit and oversight** offers the last independent check done by a supreme audit institution.

Figure 3: Framework for procurement



Source: Figure created by the authors based on the OECD Toolbox for enhancing integrity in procurement draft version 2009

The five elements presented above create the general framework for a procurement process. In many countries the real situation is that the procurement officer has to operate within a framework where risks of corruption are heightened because of weaknesses in the general framework of the country, and/or the sector/organisation the officer is working within. Examples of weaknesses can be inadequate legislation or weak execution of existing laws and corrupt auditing officers.

Why and how does corruption occur in procurement?

“Corruption is an outcome - a reflection of country’s legal, economic, cultural and political institutions”

Source: Svensson, 2005:20

What are the causes and incentives for engaging in corruption? :⁴

Causes of corruption can be divided into two main groups: structural causes and individual causes. **Structural causes** refer to the political system, history, culture and other systemic factors which can influence the level of corruption. The **individualistic causes** are related to the individual’s decision to engage in corrupt actions.

A procurement officer’s choice to engage in corruption will depend on:

- **Authority:** The procurement officer must have authority to deal with rules and regulations in a discretionary manner
- **Capability:** The power that authority provides must give the procurement officer the capability to extract value
- **Incentives:** S/he must have incentives to exploit the power that comes with the position. The incentive for a procurement officer to take part in corruption depends on:
 - *The value of possible benefits*
 - *Professional integrity:* how a procurement officer’s attitude and behaviour coincides with the goals of the institution s/he represents
 - *The actual need of the procurement officer:* In developing countries the salaries of ordinary officials are low, and necessity can explain why corruption occurs. However, human greed may also explain why corruption occurs
 - *Lack of monitoring, supervision and sanctions* is likely to increase engagement in corrupt activities. If the institutions in a country are weak, the chances of being caught in corruption tend to be low, and even if caught, the procurement officer may be able to bribe his/her way out. Thus, the cost of being corrupt is low when the institutions are weak and therefore corruption is more likely to occur

The suppliers of bribes, often companies, incentives to take part in corruption are influenced by the competitive environment they operate within. To prepare for a tender is both time consuming and costly, and to offer a bribe may be seen as a short-cut to be awarded a contract. A Norwegian business survey studied the different motivations for firms to offer bribes, and showed that the most important motivation was “the risk of having competitors who offer bribes” (Søreide, 2006). The risks of sanctions if caught taking part in corrupt actions, will have a dampening effect on incentives for corruption.

⁴ This section is based on the following papers: Andvig & Moene (1990); Aidt (2003); Schultz & Søreide (2006: 10); Thomas & Meagher (2004).

How does corruption occur in procurement?

Bribery is frequently seen as the most common type of corruption, and can be defined as an offer of money, goods or services in order to gain an advantage. Bribes can influence the government's choice of suppliers of goods and services. This can distort the allocation of resources and talents. Bribes can be used to avoid red tape and thereby speed up government's granting of different kinds of permissions. Bribes can influence outcomes of legal and regulatory processes, as well as influence the allocation of benefits such as pensions, subsidies and taxes.

The choice of offering bribes is closely linked to risk. There is a risk of being detected in bribery, and the punishment can be severe. Since bribing is an illegal agreement, the benefits to be gained are uncertain. The briber is vulnerable to deviations from the agreement because such agreements can generally not be enforced in courts due to their illegality. Further, the offer of one bribe may lead to demand for more bribes, and thus creating uncertainty whether the briber will ever get what s/he wanted in the first place (Søreide, 2009). However, being honest also entails risk and uncertainty. If the business environment is perceived as having widespread corruption, being honest may lead firms to fear losing contracts because their competitors are perceived to offer bribes to procure contracts (Søreide, 2006).

Extortion may entail to cause harm or to threaten a person in order to obtain something.

Embezzlement is the illegal appropriation of property or money entrusted to someone, but owned by others (Andvig et al., 2001).

Nepotism is to favour relatives when granting jobs or benefits (Andvig et al., 2001).

Patronage systems: Patronage takes place when local public office holders grant favours, jobs and contracts in return for political support. Such systems tend to disregard formal rules, and instead give importance to personal channels (Andvig et al., 2001).

Fraud involves some kind of deceit and manipulation or distortion of information, by a public officer, with the intention to seek personal gain. Fraud is an economic crime which covers more than bribery and embezzlement. As Andvig et al. states: ***"It is fraud when politicians and state agents take a share for closing their eyes on economic crimes, and it is serious fraud when they have an active role in it."*** (Andvig et al., 2001:9). In procurement corruption fraud often takes the form of failure to meet contract specifications, or false, inflated or duplicated invoices (U4 red flag tool).

Case study: Nigeria - Cracking down killer drugs

Fraud of the worst kind and the complexity of stopping the crime

One of the major risks with corruption in the health sector is fake drugs, since the consequences of such practice are fatal. Sick people are given the wrong medicine, drug resistance is developed, and confidence in the healthcare system is eroded. Fake and substandard drugs began to dominate the pharmaceutical market in Nigeria in the 1980's. Up until 2001 most Nigerian consumers were unaware of the danger that counterfeit drugs represent, while over 41 percent of drugs were fake or counterfeit at that time. This unawareness made it easy for fake drug dealers to continue their business. The National Agency for Food and Drug Administration and Control (NAFDAC) became the forefront in Nigerian efforts to fight killer drugs when Dr. Dora Akunyili took over as director general in 2001. In 2004 NAFDAC documented an 80 percent reduction in the occurrence of fake drugs in the market.

Learning points from the Nigerian case has been that the most important elements to curb fraud in procurement of medicines are the following:

- There must be political will and leadership in order for a positive change to take place
- Civil society awareness raising is important because it creates a demand for unethical drug sellers to change their behaviour. NAFDAC had campaigns aiming at raising public awareness about the dangers counterfeit drugs, and to encourage reporting on suspicious drugs
- Training of staff and to make them more accountable through transparent procedures is vital to increase the efficiency and effectiveness of work effort aimed at reducing the fraud. NAFDAC staff were trained and offered better working conditions, while some were let go due to allegations concerning the integrity of such officers
- Increased monitoring of medicines brought into the country as well as checks of shops selling medicine made executing the crime more difficult. The number of inspectors was increased, and the controls were more effective. NAFDAC was involved in raiding warehouses, shops, manufacturers in order to get hold of fake drugs
- There must be a legal framework in place so that that prosecuting unethical drug sellers is possible and credible. This will give drug sellers an incentive to stay on the right side of the law
- Protection of whistle blowers is a vital necessity. Two assassination attempts were made on Dr. Akunyili, and she received several death threats. Other NAFDAC employees were physically abused, while NAFDAC buildings were burned down

Sources: (Akunyili 2008; Cohen et al., 2007; WHO, 2006)

Bid rigging⁵

Big rigging takes place when companies conspire to fix the price for goods and services, purchased through a bidding process, to an artificially high level. One can distinguish between bid rigging where a public procurement officer take part in the bid rigging and situations where only companies take part in corruption. The additional funds obtained through the inflated contracted price tend to be distributed amongst the conspirators.

Bid rigging comprising official procurement officers

1. Excluding qualified bidders

Qualified bidders can be inappropriately disqualified in order to promote a favoured bidder. This may entail limited publication of requests for bids, unreasonably limited time allowed to respond to requests for bids, unreasonably narrow contract specification or intimidating behaviour in order to discourage potential bidders from taking part in the bidding process.

2. Manipulation of bids

The procurement officer can tamper with bids after submission in order to ensure that a pre-designated firm is winning the bid. This can involve making changes to parts of bids or bids scores, or “losing” bids.

3. Rigged specifications

The procurement officer can modify the criteria in the requests for proposals to fit a particular company.

4. Unbalanced bidding

The procurement officer provides the favoured firm relevant information which is not shared with other participants in the bidding process. This information gives the favoured firm a competitive advantage in tailoring its bid and thus increasing its likelihood of winning the contract.

5. Unjustified no-bid awards

Improper no-bid contracts is a common mean of avoiding competition, and can be set up by a) falsifying documentation needed for justification for issuing no-bid contracts, or b) by ignoring the requirement for no-bid contracts, or c) by splitting up purchases in order to stay below the competitive bidding limits.

Case example: Construction sector in Germany

Bid rigging was revealed in a trial in Germany in 2004. Bribery was disclosed in a tender for a contract concerning construction of waste processing facilities. One of the construction firms participating in the tender, LCS Steinmüller, bribed a civil servant to get hold of information about the other proposals submitted in the tender. LCS Steinmüller won the tender after having used this information to revise its original proposal

Source: Global Corruption Report 2005 (Transparency International, 2005a)

⁵ This section is based on the following documents: OECD, (year not stated), and the U4 red flag tool: <http://www.u4.no/themes/corruption-aid/red-flag-tool/AAA%20Start.cfm>

Collusive bidding by contractors

When contractors cooperate in order to coordinate markets, prices and production with the aim to increase their own profits by reducing competition, this can be defined a cartel.

1. Complementary bidding

Complementary bidding, also called cover bidding, occurs when competitors agree in advance who will submit the winning bid. Such bidding involve one or more of the following:

- A participant in the bidding process agrees to put forward a bid that is higher than the bid of the designated bidder
- A participant in the bidding process offer a bid that is known to be too high to be accepted
- A participant submits a bid that contains special conditions that are known to be undesirable to the purchaser

2. Bid suppression

Bid suppression occurs where one or more of the competitors agree to refrain from bidding so that one of the competitors, the designated winner, can win the contract.

3. Bid rotation

Bid rotation occurs when competitors take turns being the successful bidder.

4. Market division

The conspirers may carve up markets in different segments, and agree not to compete in each other's segments.

The importance of hindering corruption

Corruption in public procurement is an important obstacle to development. As Søreide (2002:1) states: **"Corruption in public procurement makes the officials or the politicians in charge purchase goods or services from the best briber, instead of choosing the best price-quality combination"**.

For instance, the firm responsible for building a new school may not offer the best price-quality combination, but is rather the best briber of government officials. The outcome may be a more expensive school with a lower quality that would otherwise have been the case (Tanzi & Davoodi, 1997). The misallocation of resources reduces the funds available for social services, and corruption is in this way affecting the poor.

Corruption can lower the profitability of doing legal business, and thus give incentives to go over to corrupt activities (Andvig & Moene, 1990). An emphasis is often put on the adverse welfare effects of corruption; rather than being oil in the machinery corruption fuels the growth of excessive and discretionary regulations (Rose-Ackerman, 1999). Corruption can lead to a disregard of laws and procedure, and a lower level of trust and confidence in the government. Politicians may be seen as motivated by bribes only, and creating rules only intended to generate rents. Public spending decisions can be seen as influenced by corruption when funds are allocated to sectors where the opportunities to generate bribes are high, such as the construction sector, while other sectors, such as the education sector, are neglected (Tanzi & Davoodi, 1997).

3 Risks for corruption in procurement processes

This chapter will illustrate where in the procurement process the various risks of corruption lie and will point out the different types of risks met pre, during and post award of the contract. Corruption might take place in any stage of the procurement cycle, and it is therefore vital to be aware of the risks from the very beginning.

Risks found throughout the procurement process

Procurement corruption can take many forms, and some can be found throughout the whole procurement cycle. Risks for corruption are often linked to lack of transparency. Lack of transparency can lead to inconsistent distribution of information to bidders, unclear reasons for the choice of procurement procedure, unjustified use of non-competitive procedure, and unclear evaluation criteria. Another problem is that procurement officers may not be adequately trained and thus lack necessary professionalism. This can lead to planning, budgeting and risk management below standard. Furthermore, insufficient accountability and control mechanisms may translate into mismanagement. It might be unclear what the procurement officer is accountable for, or the supervision over firms' performances may be unsatisfactory (OECD, 2007:26).

It is important to distinguish between lack of capacity or inefficiency and corrupt practices. An undesired result may originate from either of the three and it is vital to consider the reasons why a poor result came about. What might be perceived as a corrupt act might actually be an honest mistake, and vice versa (Transparency International, 2006).

What influences the opportunities for corruption?

Size of the contract: Bribes tend to be calculated as percentages of the total contract amount. Thus, the more money involved the higher potential kickback (Søreide, 2002).

Complexity of technology: With high level technology involved in a contract, it tends to be more difficult to evaluate whether the price paid for a good is realistic or not. There may not be many people who can say whether a particular aircraft should cost \$25 million rather than \$30 million (Søreide, 2002; Moody-Stuart, 1997).

Type of sector involved: There are some sectors that are more prone to corruption than other sectors. Transparency International's Bribe payers' index⁶ has a ranking which shows the likelihood of firms in different sectors to bribe public officials.

⁶ http://www.transparency.org/policy_research/surveys_indices/bpi

These are the ten sectors most vulnerable to corruption according to TI:

1. Public works, contracts & construction
2. Real estate & property development
3. Oil & gas
4. Heavy manufacturing
5. Mining
6. Pharmaceutical & medical care
7. Utilities
8. Civilian aerospace
9. Power generation & transmission
10. Forestry

(Transparency International, 2008)

Discretion: The more a procurement officer can influence demand and preferences, the easier it is to take part in corruption.

Lack of financial controls: With weak systems of oversight and enforcement, the chances of being caught in corrupt acts are smaller, and may therefore lead to a higher level of corruption (UNDP, 2004).

Restricted access to information: When there is poor transparency concerning executive decisions, and especially combined with the lack of public demand for information, this can have a boosting effect on the corruption level (UNDP, 2004).

Funding Schemes: Promotion of funding schemes such as direct budget support and sector wide approaches may increase the opportunities to take part in corruption due to fewer possibilities for financial control (Plummer & Cross, 2007).

Immediacy: The more urgent it is to complete a contract, the more opportunities there are to inflate the price of the contract (Schultz & Søreide, 2006).

Soft social control: The acceptance for corruption-like practices differs between countries (Lambsdorff, 2001).

Conflict of interest: The risk of corruption increases when public duties and the private interest of an involved actor are conflicting, because there is a chance that the public position might be exploited to the advantage of the private interests (OECD 2005a).

Typical pre-tendering risks⁷

Four main steps comprise the pre-tendering phase: needs assessment, planning and budgeting, definition of requirements and choice of procedure. Below the main risks of corruption in each step will be reflected upon.

Needs assessment

- Needs assessment is insufficient due to shortage of time or lack of capacity or competence of the procurement officer.
- Purchase is unnecessary, and demand is only induced so that a certain firm can profit, but the goods or services purchased are of little value to the public
- Political and diplomatic pressure can influence the procurement cycle

Planning and budgeting

- Needs assessment, planning and budgeting of purchases are insufficient and/or unrealistic
- Goods and services procured are not in line with the overall investment plan of the government

Definition of requirements

- Bidding documents or terms of reference are tailored for one company, so that competition is either not possible or restricted
- Bidding documents or terms of reference are unnecessarily complex in order to hide corrupt actions and to make monitoring complicated
- Unclear selection and award criteria that are not objectively defined
- Selection and award criteria are not established in advance
- Short-listing/pre-qualification: there is a risk that firms is short-listed due to an offer of bribes, and not due to qualifications and experience
- There is a risk that firms provide falsified quality assurance certificates, which can have the consequence that unqualified firms will be allowed to take part in the bidding competition

Choice of procedure

- Lack of justification/ignorance of requirements for the use of non-competitive procedures
- Misuse of non-competitive procedures based on legal exceptions through:
 - Splitting of contract in order not to exceed the competitive bidding limit
 - Exaggerated emergency
 - Untested prolongation of existing projects
- The timeframe is not consistently applied for all bidders
- Relevant information is not shared consistently to all bidders

⁷ The sections on risks in pre-tendering, tendering and post tendering phases are based on the following documents: OECD (2008:28-45); OECD (2007:21-27); Schultz & Søreide (2006: 15-19); Søreide (2002:14-19); Transparency International (2006:17-23)

- Restrictions in time: the public call for bids may be published giving very limited time to response. This will allow only pre-informed firms to have time to prepare tender documents.

Typical risks in the tendering process

Invitation to tender

- Lack of public notice for the bid invitation
- The criteria for selecting the winner are not made public
- Lack of competition leading to an excessive price
- Collusive bidding: competitors conspire to fix the price of the purchase to an artificially high level
- Misuse of confidential information: firms may offer bribes in order to gain information about the relative importance of different elements in the tender, or concerning competitors' bids

Evaluation

- Decision makers are biased due to corruption in the evaluation process
- Unclear definitions of the selection criteria makes choosing the winning company subjective
- Misuse of confidential information: a firm may offer bribes in order to gain information about the relative importance of different elements in the tender during the evaluation of bids, or concerning competitors' bids. This information may give the firm an advantage in the evaluation process

Award

- Decision makers are biased due to corruption in the award process
- Lack of access to the records of the award procedure

Typical risks after the contract is awarded

Contract Management

- The winning contractor may compensate bribes with a poorer quality, higher price and different specifications than what which were stated in the contract. This can occur in several ways:
 - The contract conditions may be considerably modified in order to permit more time and/or higher prices for the contractor
 - The products or services agreed upon in the contract may be substituted with sub-standard products or services.
 - New assets may be stolen before delivery or before being recorded in an asset register
- Poor supervision from public officials, leading to the sub-standard of goods and service not being detected
- Collusion between corrupt company and corrupt supervising official, leading to price increases, often through changes in specifications or cost increases
- Subcontractors are not selected in a transparent manner and not kept accountable for their work

Order and payment

- Claims for goods and services not supplied are filed
- Corrupt supervisors are willing to justify false claims
- Lack of separation of financial duties and supervision increases the possibility for false accounting, cost misallocations and false invoicing.
- Renegotiation of contract is allowed, and substantial changes to the contract are introduced

Case example: The education sector in Sierra Leone

A Public Expenditure Tracking Survey (PETS) was conducted on the education sector in Moyamba district in Sierra Leone in 2005. The PETS revealed that almost half of the school fees subsidies that year were unaccounted for. Furthermore, over a quarter of the materials had disappeared. An independent auditing company took over the management of the disbursement, and the delivery of fee subsidies and material improved significantly.

Source: Stealing the Future: Corruption in the classroom, (Transparency International, 2005b).

Signs of corruption in procurement

Below is a table with an overview over the most common signs, or red flags of corruption. This table is based closely on U4's red flag tool⁸.

Red flags of corruption	Related corruption schemes
Pre-tendering red flags	Pre-tendering corruption schemes
Purchase of unnecessary or inappropriate items	Corruption
Manipulation of procurement thresholds to avoid prior review	Unjustified no-bid awards
Inadequate evaluation criteria or procedures	Manipulation of bids, Excluding qualified bidders, corruption
Unreasonable prequalification requirements	Excluding qualified bidders
Ambiguous, incomplete or misleading contract specifications	Unbalanced bidding, corruption
Contract specifications are too narrow or too broad	Rigged specifications, excluding qualified bidders, corruption
Tendering red flags	Tendering corruption schemes
Failure to make bidding documents available	Excluding qualified bidders, corruption
Short or inadequate notice to bidders	Excluding qualified bidders, corruption
Unusual bidding patterns	Collusive bidding
Apparent connections between bidders	Collusive bidding
Bidder not listed in business or telephone directories	Collusive bidding
Multiple contract awards to the same company	Corruption
Qualified companies fail to bid	Excluding qualified bidders, collusive bidding
Rotation of winning bidders	Collusive bidding
Unreasonably high bids	Collusive bidding
Unreasonably low bids	Unbalanced bidding, corruption
Non-transparent bid-opening procedures	Manipulation of bids, excluding qualified bidders, corruption
Award to other than the lowest qualified bidder	Manipulation of bids, corruption
Disqualifications that are poorly supported	Excluding qualified bidders, corruption
Pressure to select a certain contractor subcontractor or agent	Corruption
Winning bid is very close to budget or estimate	Unbalanced bidding, corruption
Long unexplained delays in contract award or negotiations	Manipulation of bids, corruption
Post-award red flags	Post-award schemes
Use of questionable agents or subcontractors	Corruption
Complaints regarding poor quality goods, works or services	Failure to meet contract specification
Continued acceptance of poor quality goods, works or services	Corruption
Delivery of poor quality goods, works or services	Failure to meet contract specification
Questionable contract amendments (change orders)	Changes in contract to increase price, corruption
Questionable invoices	False inflated or duplicated invoices, corruption
Payment of unjustified high prices	False inflated or duplicated invoices, corruption
Absent or questionable documentation	False inflated or duplicated invoices

⁸ <http://www.u4.no/themes/corruption-aid/red-flag-tool/AAA%20Start.cfm>

4 Mitigating corruption in procurement

“Be proactive. Don’t wait until you have a problem”

Source: PWHC, 2009:32

The first step is to recognise that there is a risk of corruption in all procurement processes. How should corruption in procurement be curbed? The answer lays partly in competitive bidding. This is why most guidebooks and recommendations focus on descriptions on how to create a good procurement system that ensure fair competition and fair value for money. Competitive bidding does not in itself stop corruption although some risks are lowered. Mitigation strategies have to be applied at all stages of the procurement process and legislative framework may influence the strength of the procurement officers’ anti-corruption work. The legislative framework, tools for mitigating corruption in procurement and examples of mitigation strategies throughout the process is outlined in this chapter.

A study evaluating the World Bank’s support to public sector reform may shed some light on how corruption could be curbed. The study compares the World Bank practice with latest available research and analysis about anti-corruption and transparency. The main findings suggest that **“(…) corruption can best be tackled when political reform and regulatory restructuring are complemented by a systematic effort to inform the citizens about their rights and entitlements and increase their capacity to monitor and challenge abuses of the system.”** (Fjeldstad & Isaksen 2008:xi). Furthermore, it is vital to understand corruption in the context in which it can be found. Countries and cultures differ and efforts to curb corruption might work in one country but not in the other.

The importance of the legislative framework

In addition to creating a professional bidding process the general political environment has an impact on the likelihood for an anti-corruption effort to be efficient. The leadership in a country must be willing to fight corruption. If grand corruption at the highest level persists, research has shown that it is almost impossible to end pettier forms of corruption in the bureaucracy (U4, 2009). The legislative framework in a country should ideally cover all aspects of the procurement cycle and all actors involved. In country settings where the government is actively reforming their legislation to provide better security in procurement processes legislative recommendations and model provisions developed by international organisations could be a good starting point. As an example United Nations Commission on International Trade Law (UNCITRAL) has created a model law for privately financed infrastructure projects.⁹

⁹ http://www.uncitral.org/uncitral/en/uncitral_texts/procurement_infrastructure/2003Model_PFIIP.html
(Accessed January 2010)

Case example: Bangladesh

In 2003 Bangladesh reformed their legal and institutional framework for procurement. The new regulations were based on the UNICITRAL Model Law on Procurement of Goods, Construction and Services. When the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific mapped the progress and challenges for Asia and the Pacific in 2006 they pointed out that both the model law and the adaption of the law done by Bangladesh had some important gaps. Neither of the versions covers the initial phases of the procurement cycle such as the needs assessment and the project implementation. Thus, some of the areas that are most prone to corruption are not protected by the overall legislative framework. As an example, the law will not give any particular safeguard against common risks like the creation of false needs or delivery of sub standard work, goods or services. This example shows that a model law can be a good starting point for reform, but that it is important to ensure that all parts of the procurement are included.

Source: ADB/OECD Anti-Corruption Initiative for Asia and the Pacific (2006:31)

Main tools for practitioners working with integrity in procurement

The box to the right shows various tools often used to check for and avoid misconduct and fraud. Checklists and red flag tools are two examples. For the tools to be efficient it is important for the officers to understand the background for how and why corruption in procurement can happen as outlined in chapter 2 and the risks involved at the various stages as outlined in chapter 3. Three of the tools are explained more in detail below and the other tools listed in the box will be referred to later in the chapter.

Checklists and red flag guides give the practitioner an overview of potential risks, and the overview can be useful to detect fraudulent behaviour or corruption. The use of red flag tools should however be done with caution,

because the lists often are so extensive that all processes whether corrupt or not could potentially raise a few red flags. Thus, the practitioner has to combine these tools with other methods to be able to get an adequate overview of the legitimacy of the project activity. As an example a red flag for corruption would come up if the quality of the work was lower than agreed. Asian Development Bank experienced that substandard material was used under an emergency flood rehabilitation project in Tajikistan. After closer examination the evaluation found that the use of substandard material was related to stretching of budgets and increasing outputs, and corruption seemed therefore not to have been the cause of the

Available tools for mitigating corruption in procurement:

- Checklists
- Red flag guides
- Electronic procurement
- Guidebooks
- Local advisors and consultants
- Online interactive tools
- Document archive
- Templates
- Training for staff skill development

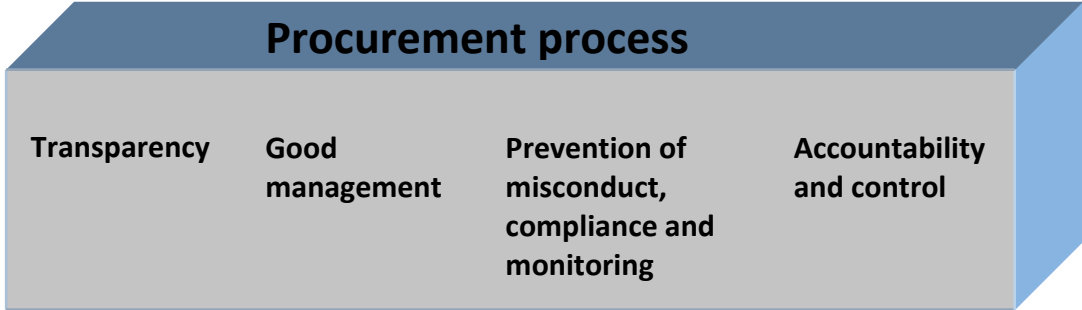
Source: The model is developed by the authors

quality change (ADB, 2007). In short, red flags are a warning of a *potential* risk and not a certain sign of corruption.

Electronic auctioning can be used to identify the best price possible through an online competition. The method is suited for homogenous products where the award decision is likely to be decided on the basis of the price. Transparency can be improved and the process is more time efficient than paper based systems. However, an initial investment to set up the technological framework and a supporting legal environment would be required (OECD, 2007:74).

Mitigating corruption throughout the procurement process

The model below shows four of the basics of a sound procurement process, and the risk of corruption is lowered if they are applied.



Source: The figure is based on OECD’s four pillars of integrity

OECD has set out four pillars that can guide the mitigation measures used throughout the procurement process. These are 1) transparency, 2) good management, 3) prevention of misconduct, compliance and monitoring and 4) accountability and control (OECD, 2009a). Concrete work based on the four points can vary widely and there is no set recipe on what to do when and how. However, organisations such as OECD, Transparency International, UN, the World Bank and U4 have gathered knowledge from experience with anti-corruption work in procurement processes, and practical advice from their experience of mitigating corruption risk is included in the following part of the chapter.

Transparency

Transparency International has created **minimum standards for public contracting** in a procurement process. These guidelines can be useful as a point of reference. A central rule of thumb is to ensure easy access to information for all interested parties throughout all the stages of the process.

Examples of the stages of procurement where transparency is important:

- a. Activities carried out prior to initiating the contracting process
- b. Tender opportunities
- c. Selection criteria
- d. The evaluation process
- e. The award decision and its justification
- f. The terms and conditions of the contracts and all its amendments
- g. The implementation of the contract
- h. The role of intermediaries and agents
- i. Dispute and settlement mechanisms and procedures

Confidentiality should be limited to legally protected information (Transparency International, 2005). At the same time confidential information should be treated respectfully and according to given routines (U4, 2009).

TI's minimum standards for public procurement

1. Code of conduct defining strict anti-corruption policies
2. Consult blacklists
3. Project integrity pact
4. Open, competitive bidding
5. Easy access to information
6. Clear restriction on communication between bidder and contractor
7. Sufficient time for bidders to prepare and complain
8. Monitoring from a high level in the organisation
9. Independent auditing bodies
10. Key functions are separate
11. Standard office safe guards are applied
12. Independent monitors participate

Source: (Transparency International, 2005)

Codes of conduct, integrity pacts and rules of disqualification make it easier for public officials to renounce corruption.

“Codes of conduct are a “compulsory” part of any procuring institution”

Source: U4, 2009

The challenge is not to create the integrity guidelines, but the integration of the written document into all forms of activity.

Professionalism

Transparency is a necessary but not a sufficient condition to ensure integrity throughout the process. The professionalism of the procurement officers is essential for good management and prevention of misconduct, compliance and monitoring. As an example, technical expertise among the officials is important to enable internal evaluations. Training of staff

and the recognition of procurement as a profession are two methods of raising the commitment for and knowledge about good practice and integrity in procurement (OECD, 2007:53-73). A general recommendation is to create an independent procurement unit with professional officials.

Accountability

Independent internal control systems and external audit and oversight are ideally a part of the framework of procurement. These mechanisms allow the openness of the process and that the involved parties are held accountable for their actions throughout the cycle (OECD, 2007:89-120). Record keeping throughout the process is essential to allow inspection of the rationale behind all decisions, and a document archive is an important tool together with standardised templates and forms. By standardising both archive and reporting accountability and transparency are enhanced, because access to information is made less complicated. Standardisation makes the officer able to compare information from other processes with the current process in a reliable manner, because the available information is of same character and structured similarly.

Typical pre-tendering mitigation strategies

Needs assessment

The first recommended task before the procurement process begins is to do a **mapping of the country setting, sector and market conditions**. The available information and how the knowledge is handled will have an impact on how well informed choices the officer does from the start. Badly informed decisions might raise the risk for corruption. The data gathering is potentially a time consuming tasks. A method to make the process more efficient is to create a) databases with vendors that have been contracted before; b) databases identifying actors that should be excluded from public procurement contracts for various reasons; c) databases showing past performance of actors that have already been contracted in public procurement; d) electronic procurement system that systematise the data and bids for easy dissemination (OECD, 2007:67-68). An example of centralised information databases is the United States' Acquisition Central.¹⁰

A tool to structure the mapping of the national procurement system in the country of operation is the OECD/DAC Procurement Joint Venture guidebook at '**Methodology for Assessing Procurement Systems**' (MAPS).¹¹ If you are entering the country and the wider political context is unknown, a mapping of the political context can be recommended to understand more about appropriate methods of mitigating risk of corruption within the specific country setting. Overseas Development Institute (ODI) has made the guide '**Mapping Political Context. A Toolkit for Civil Society Organisations**' that will give a good overview of where to start and how to proceed (Nash et al., 2006)¹²

Regardless of which databases and data storage facilities that are available in a certain setting, some kind of standardised structure of the data for award decisions is recommended. In case of a review of the process, standardised reporting formats ensures

¹⁰ <http://www.acquisition.gov>

¹¹ <http://www.oecd.org/dataoecd/1/36/37390076.pdf>

¹² <http://www.odi.org.uk/resources/download/152.pdf>

that it is easier to document on what basis the award decision was made. A standardised template for market studies and a standardised checklist for suppliers would make the process more streamlined and easier to review afterwards.

Planning and budgeting

- Use the data from the mapping exercise to ensure that the planning and budgeting of purchases are sufficient and realistic
- Use the data from the mapping of the country setting to ensure that the goods and services procured are in line with the overall investment plan of the government

Definition of requirements

- Create clear and simple rules to visualise what an honest system is expected to produce
- Simplify the goods procured as much as possible to avoid grey areas of price and quality that can arise in discussions of custom made or state of the arts products. Benchmarking made on the basis of private market prices and quality requirements inspired by off-the-shelf items make it possible to create assessable requirements for the tender (U4, 2009)
- Give civil society representatives an overview of the public officials' areas of responsibility and degrees of discretionary authority
- Maintain or adopt a blacklist to guide debarment decisions
- Ensure that a code of conduct is implemented for the contracting authority and its employees (Transparency International, 2006)
- The procurement procedures should include rules for exceptional cases. Central terms such as 'emergency', 'exceptional' and 'immediacy' should be clearly defined.
- Identification of all persons, including middlemen and agents, involved in a tender should be included in the tender information
- The companies should be encouraged to certify that they comply with all anti bribery laws and there should be direct requirements of anticorruption commitments such as codes of conduct
- Conflict of interests should be registered and managed. The OECD guide (2005b) 'Managing Conflict of Interest in the Public Sector - A Toolkit' gives good start help for practitioners needing more comprehensive guidance

Choice of procedure

A competitive process will reduce the chance of corruption in awards of contracts. Clear rules for the process and mechanisms to ensure professionalism, transparency and accountability are crucial for the procedure to be a method to avoid corruption in procurement. A generally acknowledged description of a competitive bidding process is summarised on the U4 website (www.u4.no/themes/procurement/mitigating-strategies.cfm) as sited below:

Main elements in a competitive bidding process

- Public notification of bidding opportunities
- Documents that clearly set out the needs, describe the bidding process and contract terms and conditions, and give the criteria for choosing the winner

- Submission of secret sealed bids that are opened in the presence of the bidders at a specified time and place
- Impartial evaluation and comparison of bids by competent evaluators without influence or interference by bidders or other parties
- Award of the contract to the bidder complying with all requirements and offering the best bid, as defined by the published selection criteria

Source: U4 Procurement web-page (U4, 2009)

A definition on what is required for a bidding process to be competitive and successful is also necessary in addition to the elements above. As an example Indonesian regulation deem the process as failed if there are less than three bidders; if no responsive bid is submitted; or if the lowest bid exceeds the available budget (ADB and OECD, 2006).

During the planning phase the decision has to be made on which procurement system that shall be used. According to the Paris Declaration and the Accra agreement the country system should be the preferred option. However, use of parallel systems to the local ones is an option when the local system is not developed well enough to ensure efficiency, accountability and transparency. The country system can thus be complemented with other systems as long as the ones created by the development partner harmonises with the local structures (OECD, 2005, 2008). A challenge is to decide what level of efficiency, transparency and accountability should be deemed as adequate. As a rule of thumb choose open competitive bidding as the default practice.

- The number of decision making centres should be reduced.
- Separating the evaluation of bids into a technical and an economical team should be considered (U4, 2009).
- Make bid evaluation criteria public from the beginning

Typical mitigation strategies in the tendering process

Invitation to tender

- Allow sufficient time for bid preparation and for complaints after the contract is awarded (Transparency International, 2006)
- Time limits must be strictly respected

Evaluation

- Ensure that a code of conduct is implemented for the tendering companies
- Establish clear protocols for communications
- Create a clear contact points for bidders, and let only a small number of officers be allowed to deal directly with the bidders (Queensland purchasing, 2006)
- Strict anti-corruption policies have to comply with all actors involved – also subcontractors and middle men (Transparency International, 2006:54-56)
- Background checks should be run on consultants that are involved, and the hiring process should be transparent
- Use different staff for the bid evaluation and the award decision

Award

- Civil society should be involved at the stage of the decision making process. Public hearings are one method
- Disclosure of information about the award should be the rule
- Use a group to agree on the award decision instead of one individual
- Practice regular staff rotation to avoid corrupt relationships to establish and strengthen (Transparency International, 2006:44, U4, 2009)
- Unsuccessful bidders should be provided with an explanation and relevant information for why they did not win the tender

Case example: The telecommunication sector

In the telecommunication sector there are few competitors even at the international level, and thus the competitive bidding at the national level will be influenced by the limited competition. The risk of collusion is regarded as higher under these circumstances than if there are more potential bidders in the market. The risk and cost of whistle blowing is also likely to be higher under these circumstances, and thus the importance of having other anti-corruption measures in place is evident.

Corruption prevention efforts become more difficult as the costs and risks of whistle blowing increases

To have an integrity pact where the actors involved in the procurement process have proved to be valuable in several cases that Transparency International has been involved in. As an example their involvement in Columbia in the Telecommunication sector increased the awareness level of the risks involved. Further, the procurement process was completed without conflict between the bidders, which could potentially be assigned to the openness of the process and the availability of information.

Source: Curbing corruption in public procurement (Transparency International 2005:84-86)

Typical mitigation strategies after the contract is awarded

Contract management

To meet the risk of unauthorised **quality or price changes** frequent and unannounced controls and external monitoring should be done regularly until the project is finalised. There should be a threshold for how much change in price or quality should be allowed. By crossing the threshold the project will automatically be put under monitoring from the highest level of authority involved. The rules for contract change orders should be clear and established in the original contract (Transparency International, 2006). Examples of questions that should be addressed in the contract are what kind of additional work has to go through a new procurement procedure? What is the definition of supplementary work? How should the price for supplementary work be decided?

- Online reporting and electronic systems could be a tool to enhance transparency and oversight
- A board of contract appeals should be appointed
- A general rule is to create as specific objectives for the project as possible from the start. In areas where there still is room for individual interpretation one solution can be to have a committee responding and not just one officer.
- In large project a performance rating of the contract winner should be a part of the procedure.
- Whistle blowing: A way to report about detected corruption or suspicions should be established and made known.
- Whistle blower protection is important both to shelter the individuals involved and to increase the likelihood for someone to provide information about sensitive issues. A strategy should be developed before someone is in need of protection.

Order and payment

- The contract should include provisions making it possible to hold back payment if bribery is detected.
- Middlemen that has bribed or tried to bribe public officials should be debarred from future tenders.
- Sanctions should be proportional to the price of the contract.
- Conduct performance audits in addition to normal audits
- Hold the guilty accountable by claiming the amount and debar them from future bidding processes.
- Investigate suspicions by using the prosecution authorities or suitable authorities. In country settings where there is a weak legal framework and lack of oversight bodies with capacity or capability to undertake investigations, independent investigation teams can be assembled or called in from elsewhere. As an example capacity can come from various ministries, departments, agencies or even with the use of external procurement or audit agencies.

Checklist summarising risks and mitigation strategies

Examples of corruption risks	Examples of mitigation strategies	Examples of Tools
General risks	General mitigation strategies	
<ul style="list-style-type: none"> Insufficient transparency 	<ul style="list-style-type: none"> Establish minimum standards for transparency as a threshold 	<ul style="list-style-type: none"> Guides to integrity in competitive procurement Minimum standards for transparency
<ul style="list-style-type: none"> Insufficient accountability 	<ul style="list-style-type: none"> Political will Legislative framework Internal control and external audit 	<ul style="list-style-type: none"> Paris Declaration, AAA Model laws aligned with country systems Document archive Standardised templates for documentation
<ul style="list-style-type: none"> Lack of professionalism 	<ul style="list-style-type: none"> Training of staff on technical expertise on procurement and integrity Create codes of conduct and integrity clauses in the contracts 	<ul style="list-style-type: none"> Training and education Codes of conduct
1. Pre-tendering phase		
Needs assessment	Needs assessment	
<ul style="list-style-type: none"> Needs assessment is insufficient due to shortage of time or lack of capacity or competence of the procurement officer. Purchase is unnecessary, and demand is induced Political and diplomatic pressure can influence the procurement cycle 	<ul style="list-style-type: none"> Map the market conditions and the sector Use trained procurement staff Leave sufficient time for the mapping Map whether there is actual need for the service or product Map the risks created by the political climate and institutional framework in the country setting 	<ul style="list-style-type: none"> Standardised checklists and forms Public hearings MAPS: Methodology for assessment of national procurement systems (OECD 2006) Mapping Political Context: A Toolkit for Civil Society Organisations (Nash et al 2006)

Examples of corruption risks	Examples of mitigation strategies	Examples of Tools
Planning and budgeting		
<ul style="list-style-type: none"> Needs assessment, planning and budgeting of purchases are insufficient and/or unrealistic Goods and services procured are not in line with the overall investment plan of the government 	<ul style="list-style-type: none"> Get more than one officer to approve the data from the mapping of the product, sector and country. Involve an independent supervisory body, such as think tanks or civil society organisations Check alignment with government strategies while doing the country mapping 	<ul style="list-style-type: none"> Data from the mapping exercise Special advice from independent experts Data from the mapping of the country setting
Definition of requirements		
<p>Complex and unclear:</p> <ul style="list-style-type: none"> Bidding documents or terms of reference are unnecessarily complex in order to hide corrupt actions and to make monitoring complicated Unclear selection and award criteria that are not objectively defined Selection and award criteria are not established in advance Conflict of interest 	<p>Simple and clear:</p> <ul style="list-style-type: none"> Create clear and simple rules to visualise what an honest system is expected to produce. Simplify the goods procured as much as possible Benchmark prices on the basis of private market prices and quality requirements inspired by off-the-shelf items Give civil society representatives an overview of the public officials' areas of responsibility and degrees of discretionary authority Define the evaluation criteria in measurable factors and establish a committee to evaluate subjective parts of the bid Require information of potential conflict of interest 	<ul style="list-style-type: none"> Rule book for procurement Market analysis Civil society involvement Managing conflict of Interest in the Public Sector - A Toolkit. (OECD, 2005b)

Examples of corruption risks	Examples of mitigation strategies	Examples of Tools
<p>Low integrity:</p> <ul style="list-style-type: none"> • Short-listing/pre-qualification due to an offer of bribes • Bidding documents or terms of reference are tailored for one company, so that competition is either not possible or restricted • There is a risk that firms provide falsified quality assurance certificates, which can have the consequence that unqualified firms will be allowed to take part in the bidding competition 	<p>Check integrity:</p> <ul style="list-style-type: none"> • Ensure that a code of conduct is implemented for the contracting authority and its employees • The companies should be encouraged to certify that they comply with all anti bribery laws and there should be direct requirements of anticorruption commitments such as codes of conduct. • Identification of all persons, including middlemen and agents, involved in a tender should be included in the tender information • Maintain or adopt a blacklist to guide debarment decisions • Insurance coverage and payments of deposits should be requested 	<ul style="list-style-type: none"> • Code of conduct for bidders and procurement office • Certificates • Blacklists • Due diligence checks
Choice of procedure		
<ul style="list-style-type: none"> • Lack of justification/ignorance of requirements for the use of non-competitive procedures • Misuse of non-competitive procedures based on legal exceptions • Relevant information is not shared consistently to all bidders 	<ul style="list-style-type: none"> • Create clear rules for when competition is required • The procurement procedures should include rules for exceptional cases. • Define central terms such as 'emergency', 'exceptional' and 'immediacy'. • Use available channels to reach all potential bidders • Establish clear protocols for communications 	<ul style="list-style-type: none"> • Procurement rule book • E-procurement systems • Mass media

Examples of corruption risks	Examples of mitigation strategies	Examples of Tools
2. Tendering phase		
Invitation to tender		
<ul style="list-style-type: none"> • Lack of public notice for the bid invitation • The criteria for selecting the winner are not made public • Collusive bidding-competitors conspire • Misuse of confidential information 	<ul style="list-style-type: none"> • Allow sufficient time for bid preparation and for complaints after the contract is awarded • Time limits must be strictly respected • Make bid evaluation criteria public from the beginning • Codes of conduct • Encourage whistle blowing by creating clear lines for communication and whistle blowing protection • Create a clear contact points for bidders • Let only a small number of officers be allowed to deal directly with the bidder • Share all information equally with all bidders 	<ul style="list-style-type: none"> • E-tools, mass media and available channels in your country setting • Channels for whistle blowers to inform management • Whistle blowing protection • E-tools to formalise communication
Evaluation		
<ul style="list-style-type: none"> • Decision makers are biased due to corruption in the evaluation process • Unclear definitions of the selection criteria makes choosing the winning company subjective • Misuse of confidential information 	<ul style="list-style-type: none"> • Ensure that a code of conduct is implemented for the tendering companies • Strict anti corruption policies has to comply to all actors involved – also subcontractors and middle men • Due diligence should be done on consultants that is involved, and the hiring process should be transparent • Use different staff for the bid evaluation and the award decision • The number of decision making centres should be reduced • Separate the evaluation of bids into a technical and an economical team 	<ul style="list-style-type: none"> • Code of conduct • Due diligence routines • Structures of responsibilities

Examples of corruption risks	Examples of mitigation strategies	Examples of Tools
Award		
<ul style="list-style-type: none"> Decision makers are biased due to corruption in the award process Lack of access to the records of the award procedure 	<ul style="list-style-type: none"> Involve civil society Proactive disclosure of award information Use a group to agree on the award decision instead of one individual Practice regular staff rotation to avoid corrupt relationships to establish and strengthen Unsuccessful bidders should be provided with an explanation and relevant information for why they did not win the tender. 	<ul style="list-style-type: none"> Public hearings Staff rotation Electronic information sharing
3. After the contract is awarded		
Contract management		
<ul style="list-style-type: none"> Price, quality or specifications change after contract is signed Poor supervision from public officials Collusion between corrupt company and corrupt supervising official Subcontractors are not selected in a transparent manner and not kept accountable for their work 	<ul style="list-style-type: none"> Frequent and unannounced controls External monitoring Set a threshold for changes allowed and a plan for how to handle the situation A board of contract appeals should be appointed The contract should include provisions making it possible to hold back payment if bribery is detected Whistle blowing made possible Whistle blower protection strategy ready 'Four eyes rule' – always have more than one officer to inspect, supervise and interpret issues that are not clearly objective 	<ul style="list-style-type: none"> Online reporting and electronic systems Independent body to receive whistle blower messages Whistle blower protection strategy Supervisory committees

Examples of corruption risks	Examples of mitigation strategies	Examples of Tools
<p>Order and payment</p> <ul style="list-style-type: none"> • Claims for goods and services not supplied are filed • Corrupt supervisors are willing to justify false claims • Lack of separation of financial duties and supervision increases the possibility for false accounting, cost misallocations and false invoicing • Renegotiation of contract is allowed, and substantial changes to the contract are introduced. This undermines the relevance of a bidding process 	<ul style="list-style-type: none"> • In large projects a performance rating should be a part of the procedure • Middlemen that has bribed or tried to bribe public officials should be debarred from future tenders • Sanctions should be proportional to the price of the contract • Conduct performance audits in addition to normal audits • Investigate suspicions by using the prosecution authorities or other suitable external auditors • Hold the guilty accountable by claiming the amount and debar them from future bidding processes 	<ul style="list-style-type: none"> • Performance rating • Black lists • Investigative units • Sanctions

List of web resources

Organisation	What can you find?	Web address
The ADB/OECD Anti-Corruption Initiative	Supporting the fight against Corruption in Asia and the Pacific and offering resources on policy dialogue, policy analysis, and capacity building	www.oecd.org/corruption/asiapacific
CoST	CoST is an international multi-stakeholder initiative designed to increase transparency and accountability in the construction sector	http://www.constructiontransparency.org/
OECD	Guidebooks, tools, country cases and other resources for integrity in procurement	www.oecd.org
UNPCDC	United Nations Procurement Capacity Development Centre	http://www.unpcdc.org/home.aspx
Transparency International	Handbook for transparency in procurement	http://www.transparency.org/publications/publications/other/procurement_handbook
United Nations Procurement Division (UNPD)	The UN's procurement division with a mission to provide responsive, effective, and quality expert procurement services and business advice	http://www.un.org/Depts/ptd/
U4	Research, helpdesk and training on anti-corruption	www.u4.no
The World Bank	Procurement site with knowledge and information on public procurement systems, including Country Procurement Assessment Reports and more.	http://go.worldbank.org/9KQZWXNOIO
WTO working Group on Transparency in Government Procurement	Advice and documents on government procurement and transparency	http://www.wto.org/english/tratop_e/gproc_e/gptran_e.htm
OLAF	The European anti-fraud office	http://ec.europa.eu/dgs/olaf/
The European Public Procurement Network (PPN)	A co-operation network of public procurement expert officials, dedicated to European companies taking part in procurement procedures in other countries of the network than theirs.	http://www.publicprocurementnetwork.org/
IAE (Integrated Acquisition Environment)	The Acquisition Central provides a one-stop website for all matters related to acquisition in the US such as databases, regulations, information, training and advice.	https://www.acquisition.gov/
UNCITRAL	United Nations Commission on International Trade Law – Online resources on procurement and infrastructure	http://www.uncitral.org/uncitral/en/uncitral_texts/procurement_online.html

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