

TRANSPARENCY INTERNATIONAL DEFENCE & SECURITY

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TRANSPARENCY INTERNATIONAL



OUR VISION

A WORLD IN WHICH
GOVERNMENT, POLITICS,
BUSINESS, CIVIL
SOCIETY AND THE DAILY
LIVES OF PEOPLE ARE
FREE OF CORRUPTION



■ Countries and territories with a Transparency International chapter

(current as of November 2012)

CORRUPTION IN DEFENCE IS:



DANGEROUS

It undermines military effectiveness. Poor equipment risks the lives of troops.

DIVISIVE

It destroys citizens' trust in government and the armed forces.

WASTEFUL

The defence sector is worth \$1.7 trillion a year. The waste from corruption is in billions of dollars.

Corruption is a strategic issue for defence and security.

CORRUPTION IN DEFENCE IS DANGEROUS



CORRUPTION IN DEFENCE IS DIVISIVE



CORRUPTION IN DEFENCE IS WASTEFUL



DEFINITIONS



PURCHASING Form of buying that consists of receiving goods or services by paying a fixed price. Amount paid will be in accordance with the quality and quantity of goods or services. Process is simple.

PROCUREMENT The acquisition of appropriate goods or services at the best possible total cost of ownership. To meet the needs of the purchaser. Factors of quality and quantity taken into account. Much easier than acquisition.

ACQUISITION Acquiring capabilities, parts of which may be designed from scratch as specified by the client. Covers whole life cycle of the capability. Much longer process. Involves procurement and purchasing of sub-system, components and services. Much wider concept, covering whole life cycle of acquired systems.

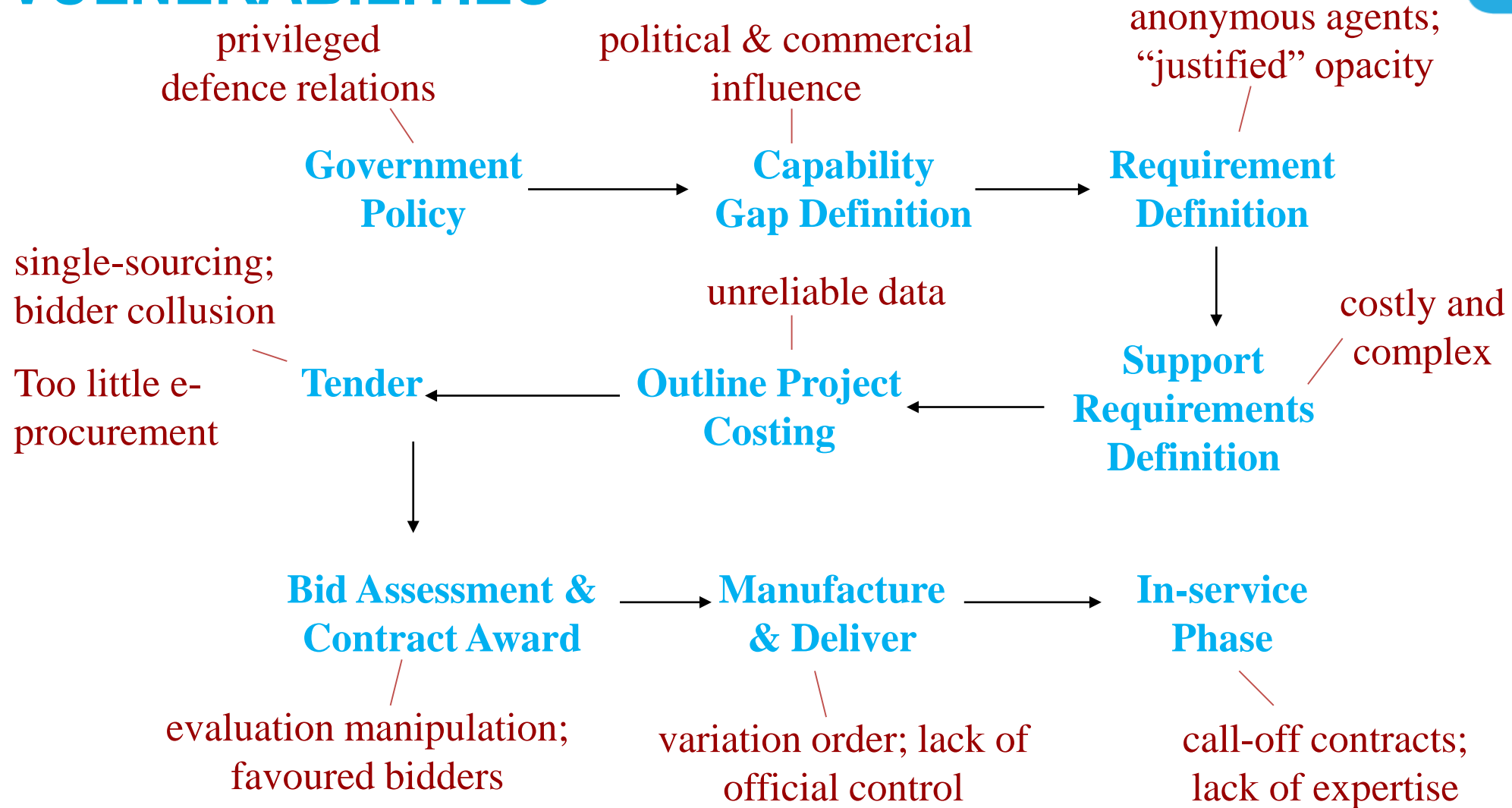
DEFENCE AND SECURITY CORRUPTION RISKS



POLITICAL	PERSONNEL	PROCUREMENT
Defence and security policy	Leadership Behaviour	Technical Requirements / Specifications
Defence budgets	Payroll, Promotions, Appointments, Rewards	Single Sourcing
Nexus of Defence & National Assets	Conscription	Agents / Brokers
Organised Crime	Salary Chain	Collusive Bidders
Control of Intelligence Services	Values and Standards	Financing Packages
Export Controls	Small Bribes	Offsets
FINANCE	OPERATIONS	Contract Award, Delivery
Asset Disposals	Disregard of Corruption in Country	Subcontractors
Secret Budgets	Corruption within Mission	Seller Influence
Military-owned businesses	Contracts	
Illegal Private Enterprises	Private Security Companies	



PHASES OF DEFENCE PROCUREMENT & VULNERABILITIES



DEFENCE VULNERABILITIES - SUPPLIER



- Companies are government creatures: “one” customer, limited competition, 50 year life-cycle, company survival often at stake
- Nature of buyer: tending towards monopsony with big bureaucracy.
- Revolving door: during career and post career
- Double standards: may be clean in one market and not necessary in another

DEFENCE VULNERABILITIES - BUYER



- Secrecy and national security issues
- Technical requirements open to manipulation
- Multiple layers of subcontractors
- Contract and product complexity
- Military hierarchy
- Revolving door
- Government pressure
- Off budget funding
- Offsets
- Tradition of protection of national companies
- Can be hard to compare prices and therefore VFM



ADDED RISKS

- Non competitive bids
- IDIQ contracts, exceeding limits,
- Lack of contract clarity
- Deeply embedded agents
- Use of bidders in development phase
- Underbidding
- Urgent needs
- Private Finance Initiatives – advantages and disadvantages
- Requiring more customisation = huge cost increase. Can benefits a bidder, or shut out competition
- Process becoming lengthier as more and more controls added: can be self defeating
- Post contract support

TACKLING PROCUREMENT CORRUPTION RISK



Organisation and process

- Analysis of risks
- Defence budget openness
- Secrecy restrictions
- % Competitive bidding
- Requirements placed on contractors
- Organisation centralisation
- Anti-corruption Director and team
- Strong investigation function
- E-procurement

Collaboration with civil society

- Independent monitoring
- Involvement in defence policy

Procurement officials

- Professional competence
- Code of Conduct
- Asset declarations
- Rotation of posts
- Conflict of interest
- Whistleblowing
- Investigation, Prosecution

Collaboration with industry

- Engage industry association
- Demand high standards

PROCUREMENT RED FLAGS



- Unusual or unauthorised vendors
- Large gifts and entertainment expenses
- Unusual increase in vendor spending
- Copies of supporting documentation in lieu of originals
- Duplicate payments
- Tips and complaints
- Sequential invoices paid
- Unusual/large/round \$ amounts paid
- Payments just under authorisation level
- Employee-vendor address match
- Multiple invoices paid on same date
- Slight variation of vendor names



CORRUPT PAYMENTS



The bribe need not be in money or cash, and often is not. Any benefit given or received with the intent to corruptly influence the recipient can be a bribe.

“Things of value” that have been given and received as bribes include:

- Expensive gifts, free travel and lavish entertainment
- Loans, whether or not repaid
- Use of credit cards
- Sexual favours (hiring of prostitutes, etc.)
- Overpaying for purchases, e.g., paying \$20,000 for a car worth \$5,000
- Cash
- Fees and commissions, even if recipient allegedly provided services to the payer
- Hidden interests in business transactions



THE MAJOR RED FLAGS OF BRIBES AND KICKBACKS



- Improper (e.g., non-competitive) selection of a contractor
- Unjustified favouritism of a certain contractor, e.g. approval of high prices, excessive purchases, continued acceptance of low quality goods, etc.
- Unnecessary broker or middleman involved in transactions
- Procurement official accepts inappropriate gifts and entertainment
- Unexplained increase in wealth by procurement official



COLLUSIVE BIDDING BY CONTRACTORS



Groups of bidders might secretly agree to submit complementary high bids to allow pre-selected contractors to win contracts on a rotating basis, or to divide contracts by territory, or take other steps to defeat the competitive process and divide work.

Collusive bidding, also known as “bid rigging” will drive up prices in the affected industry. It is most common in industries with high start up and entry costs and relatively few bidders, such as road construction, paving and waste disposal.

Some form of bid rigging often accompanies kickback schemes in order to insure that the corrupt company is selected.





THE MAJOR RED FLAGS OF COLLUSIVE BIDDING



- Winning bid too high compared to cost estimates, published price lists, similar jobs or industry averages; persistent high prices over time
- Rotation of winning bidders by job, type of work or geographical area
- Losing bidders hired as subcontractors
- Unusual bid patterns. For example, the bids are:
 - Too high
 - Too close
 - Too consistent
 - Too far apart
 - Round numbers
 - Incomplete Identical or similar to prior or other bid
- Apparent connections between bidders: common addresses, personnel, phone numbers, etc.



CHANGE ORDER ABUSE



A contractor, in collusion with procurement official, can submit a low bid to insure winning a contract, and then increase its price and profits by submitting change order requests after the contract is awarded.

A dishonest contractor, acting alone or in collusion with contract personnel, can submit unjustified or inflated change order requests to increase profits, or, as the result of corruption, use the change order process to extend a contract that should be re-bid.



MAJOR RED FLAGS OF CHANGE ORDER ABUSE

- Weak controls and lax procedures regarding review of need for change orders
- Numerous, unusual or unexplained change orders for a specific contractor approved by same employee
- Pattern of low bid award followed by change orders that increase the price or scope of the contract, or extend the contract period
- Vague contract specifications followed by change orders
- Incomplete or “preliminary” specifications subject to change based on later engineering studies, etc.

EXCLUDING QUALIFIED BIDDERS



A dishonest procurement employee, probably in collusion with a corrupt bidder, can use a variety of tactics to exclude other qualified bidders, including arranging narrow or unduly burdensome pre-qualification criteria, establishing unreasonable bid specifications, splitting purchases to avoid competitive bidding, making unjustified sole source awards, and so on.

TENDER OPPORTUNITY



MAJOR RED FLAGS OF EXCLUDING QUALIFIED BIDDERS:

- A significant number of qualified bidders fail to bid
- Unreasonably narrow contract specifications
- Allowing an unreasonably short time limit to bid
- Adopting unreasonable “pre-qualification” procedures
- The failure to adequately publicise requests for bids, e.g., using only local publications, or failing to publicize the request for bids

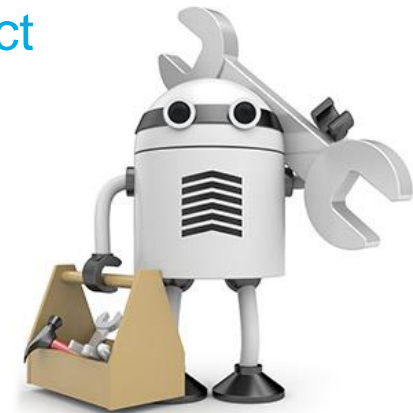
FAILURE TO MEET CONTRACT SPECIFICATIONS



A contractor that knowingly delivers works, goods or services that do not meet contract specifications may be guilty of fraud if it falsely represents that it has complied with the contract or deliberately conceals its failure to do so. If it has not made fraudulent representations or concealed its acts, the contractor would be liable for breach of contract rather than fraud.

MAJOR RED FLAGS OF FAILURE TO MEET CONTRACT SPECIFICATIONS

- Discrepancies between test and inspection results and contract claims and specifications
- Failed tests or inspections
- Low quality, poor performance and high volume of complaints
- Early failure or high repair rates



RIGGED SPECIFICATIONS



An employee with procurement responsibilities, probably in collusion with a supplier or contractor, drafts a request for bids or proposals that contain specifications that are either too narrow or too broad.

Unduly narrow specifications allow only a favoured contractor to qualify, and unduly broad specs can be used to qualify an otherwise unqualified contractor to bid. Broad specs can also be used in connection with later contract amendments and change orders to facilitate a corruption scheme.



MAJOR RED FLAGS OF FAILURE OF RIGGED SPECIFICATIONS

- Only one or a few bidders respond to request for bids
- Similarity between specifications and winning contractor's product or services
- Specifications are significantly narrower or broader than similar previous requests for bids
- Purchaser uses brand name in request for bids
- High number of competitive or sole source awards to one supplier



MITIGATING RISKS OF SINGLE SOURCING



Single-sourcing lacks the natural levels of oversight compared to a competitive process.

This creates greater corruption vulnerability.

Mitigating the risks

- Include multiple levels of oversight and approval of bids
- Require personal asset declarations
- Rotate staff in key positions to reduce possibility of 'corrupt relationships' being developed
- Have rigorous internal and external audits focused on influence
- Set a fair and open benchmark and/or have open-book pricing
- Demand strong compliance culture from the business you contract with
- Consider implementing a robust suspension and debarment system



MANAGING THE RISKS OF SECRET BUDGETS



Secret budgets are difficult to manage well.

Best practice guidelines:

- Aim for minimal expenditure dedicated to secret items (less than 1%)
- Make extensive information on all spending on secret items readily available for the appropriate legislative committee
- Provide legislators with detailed audit reports related to the security sector and other secret programs
- Ensure all defence-related expenditures are recorded in the official defence budget or that those classified as state secrets go through adequate and well-established legal processes
- Restrict off-budget military expenditure

MANAGING THE RISKS POSED BY AGENTS



Best practice for importing governments:

- Ensure that embassies and procurement officials are well equipped to provide guidance on procurement processes.
- Review procurement processes and implement systems that increase transparency and reduce interaction with government officials.
- Establish ethics and anti-corruption requirements for all bidding companies and Require that companies have ethics and anti-corruption programmes that apply to their agents.
- Require that companies register agents and declare all forms of remuneration.
- Require that agents receive payments into local bank accounts and that company contracts outline the right to audit agent financial accounts by government agencies.
- Strengthen oversight and enforcement – by Establish mechanisms for reporting corruption in procurement and by cooperating internationally
- Prosecute those found guilty of committing corrupt acts.
- Allow civil society to independently monitor defence contracting