

Need for Openness & Transparency in the Procurement & Delivery of Engineering Services

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Need for Openness & Transparency in the Procurement & Delivery of Engineering Services

- Background
- What is the Problem?
- What is Corruption?
- Red Flags Indicating Corruption
- Corruption Exists
- Filling the Need for Openness & Transparency
- What Can You Do?

Background

- World construction spending for 2004 = \$3.9 trillion (USD) – *ENR*, January 10, 2005
- 10 percent +/- is lost to bribery and corruption – more than \$390 billion (USD) annually! – TI,2005
- 2015 - 80% of infrastructure \$ spent in developing countries – U N forecast
- 2020 – 2/3 of major cities in the world will be in developing countries – AT Kearny, Inc forecast

What is the Problem?

- Insufficient number of local engineers to do that quantity of work
- More global practices than ever before in history
- More teaming arrangements with new partners
- New relationships mean learning new ways of doing business – good or bad!
- The developing countries rate lowest in openness and transparency in decision making
- The potential for corruption is high

What is the Problem?

- CORRUPTION KILLS!
 - Poorer quality structures and equipment put people at risk
 - Needed projects go unbuilt
 - People die due to lack of food and poor health care

- Neill Stansbury, Transparency International

What is the Problem?

- Corruption Undermines Sustainable Development
 - Project quality decreases
 - Required maintenance increases
 - Project useful life is shortened
 - People are not served well

What is Corruption?

- Kickbacks & Fraud
 - Front Companies
 - Bid Rigging / Collusion
 - Loan Brokers
 - Conflicts of Interest
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- Maarten de Jong, GORGWELL Group

What is Corruption?

- Kickbacks & Fraud
 - \$ payments or wire transfers disguised – no trail
 - Lots of middlemen – may work with numerous contractors
 - Appears to be legitimate relationship – hard to decipher illegitimate relations from legitimate ones
 - Forged documents
 - Conspiracy of silence

- Maarten de Jong, GORGWELL Group

What is Corruption?

- Front Company
 - Company with no history
 - Often offers diverse, disconnected services
 - Few ownership records – hidden owners (Government officials?)
 - Great interest in company by Project officials
 - May be subcontractor hired as local agent
- Maarten de Jong, GORGWELL Group

What is Corruption?

- Bid Rigging / Collusion
 - Excluding unfavored bidders
 - Tipping off favored bidders
 - Profits come in change orders
 - Short bid period
 - Bidders agree who will get the work
 - May be a component of a larger corruption scheme
- Maarten de Jong, GORGWELL Group

What is Corruption?

- Loan Brokers / Commissioners
 - Acts as agent for corrupt officials
 - Can operate behind shell companies
 - Extort \$ from contractors
 - Set up front companies
 - Help rig contract awards
 - Take their cut and forward project officials cut
 - May be hired as project advisors

- Maarten de Jong, GORGWELL Group

What is Corruption?

- Conflicts of Interest
 - Per se conflict – having a personal stake
 - Project officials, friends, relatives, family members involved
 - Corruption may be a co-existing element
 - Disclosures not made up front

- Maarten de Jong, GORGWELL Group

Red Flags Indicating Corruption

- Recurring use of 1 company
 - Close personal relationships among project parties
 - Vague, incomplete or non-existent terms of reference
 - Firms use false qualifications and “ghost” employees
 - Shared addresses / phone numbers among firms
 - A firm does business under lots of different names
 - One firm does diverse tasks
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- Maarten de Jong, GORGWELL Group

Corruption Exists

- That's the way the world is
- Woe is me
- We're helpless

Corruption Exists

- That's the way the world is
- Woe is me
- We're helpless

OR

Corruption Exists

- That's the way the world is
- Woe is me
- We're helpless

OR

- Act now & act together to get the **NEEDED OPENNESS AND TRANSPARENCY** in our projects

Corruption Exists

- Fighting corruption means **improving the openness and transparency of the decision-making processes** in all phases of a project:
 - Procurement
 - Of the project design team
 - Of subcontractors
 - Of all materials and equipment

Corruption Exists

- Fighting corruption means **improving the openness and transparency of the decision-making processes** in all phases of a project:
 - Performance of the work
 - By the project design team
 - By subcontractors
 - By all materials and equipment suppliers

Filling the Need for Openness & Transparency

- Who are the key players?
- What are they doing?

Filling the Need for Openness & Transparency

- Key Players
 - Governments
 - FIDIC – consulting engineers
 - World Economic Forum – constructors
 - Lenders – World Bank, IADB
 - Evaluators – Transparency International

Filling the Need for Openness & Transparency

- Key Players
 - Professional Organizations – UPADI, Pan American Academy of Engineers, and societies in the U.S., Puerto Rico, Bahamas, Mexico, Panama, Brazil, Colombia, Argentina, Canada, UK, Spain, Italy, Finland, Austria, Romania, Hungary, France, Poland, Belgium, Portugal, Egypt, South Africa, Zimbabwe, Nigeria, Korea, India, China, Thailand, Sri Lanka, Taiwan, and Australia.

Filling the Need for Openness & Transparency

- What Governments are doing
 - U.N. Convention against Corruption
 - OECD Convention on Combating Bribery
 - Inter-American Convention against Corruption
 - 2 Council of Europe Conventions on Corruption
 - 2 EU Conventions
 - African Union Convention on Preventing & Combating Corruption

Filling the Need for Openness & Transparency

- What Governments are doing (cont.)
 - ADB OECD Anti-Corruption Action Plan for Asia & the Pacific
 - G8 Communique to reduce bribery
 - OECD prosecutions
 - Anti-bribery laws
 - Anti-money laundering regulations
 - Disbarments
 - Neill Stansbury, Transparency International

Filling the Need for Openness & Transparency

- FIDIC
 - Guidelines for Business Integrity Management in the Consulting Industry
 - How to develop a business integrity management system in your firm
 - Uniform, transparent and accountable practices

- Kris Nielsen, PhD, JD, Pegasus Global Holdings

Filling the Need for Openness & Transparency

- World Economic Forum (WEF)
 - Major engineering/construction, oil & gas, and mining & minerals companies
 - Partnering Against Corruption Initiative (PACI)
 - No bribery
 - Effective anti-corruption practices

Filling the Need for Openness & Transparency

- Lenders
 - World Bank
 - Department of Institutional Integrity
 - Voluntary Disclosure Program

Filling the Need for Openness & Transparency

- Evaluators
 - Transparency International
 - Corruption Perception Index
 - Business Principles for Countering Bribery

Filling the Need for Openness & Transparency

- Professional Organizations
 - ASCE
 - New Canon 6 of our Code of Ethics
 - Engineers shall act in such a manner as to uphold and enhance the honor, integrity, and dignity of the engineering profession and shall act with zero-tolerance for bribery, fraud, and corruption. Engineers shall:
 - » Not knowingly engage in business or professional practices of a fraudulent, dishonest or unethical nature;

Filling the Need for Openness & Transparency

- Canon 6 (continued) :
 - » Act with zero-tolerance for bribery, fraud and corruption in all engineering or construction activities in which they are engaged;
 - » Be especially vigilant in maintaining appropriate ethical behavior where payments of gratuities or bribes are institutionalized practices;

Filling the Need for Openness & Transparency

– Canon 6 (continued) :

- » Strive for transparency in the procurement and execution of projects, including disclosure of names, addresses, purposes and fees or commissions paid for all agents facilitating projects; and
- » Encourage the use of certifications specifying zero-tolerance for bribery, fraud and corruption in all contracts

Filling the Need for Openness & Transparency

- WFEO
 - Anti-corruption Task Group
 - Representatives from every continent

What Can You Do?

- Act!
 - Remember that ignoring corruption is the same as condoning it
- Join our 3-Part Program
 - Shine a bright spotlight on corrupt activities wherever you see them
 - Make it socially unacceptable to be involved in corruption
 - Educate the next generation of engineers on the real cost of corruption

Need for Openness & Transparency in the Procurement & Delivery of Engineering Services

Questions?