APSACC 2011
Combating Corruption in Procurement

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good procurement processes

- Value for money
- Ethical and fair treatment of all participants
- Probity, accountability and transparency
• Corrupt practice
• Fraudulent practice
• Collusive practices
• Coercive practices
Global Context

• Poor countries

• Rich countries

• Rich companies operating in poor countries
Medical supply price differences across hospitals in four countries
(Source Di Tella and Savedoff 2001.)
Global Context

- Corrupt Societies
- Corrupt Organisations
- Corrupt Individuals
- Corrupt Events

Unit of analysis?
Point of entry?
Case Studies: Equipment Procurement

• An FBI security specialist approved a $2 million contract to upgrade shredders in return for a Caribbean family cruise.

• The cruise was worth $7,500.

(Roberts 2010)
**Case Studies:**

Infrastructure Procurement

- A Swiss-based subsidiary of the French telco Alcatel contracted consultants to perform *vaguely described marketing services*, which included paying more than $US7 million to seven Costa Rican officials.

- In December 2010, Alcatel was fined $US137 million

  (Verrender 2011)
Case Studies: Defence Procurement

• Darleen Druyun, a USAF procurement official inappropriately managed contracts with Boeing before taking a job as Vice-President with them

• Druyun was jailed and Boeing fined $615 mil

(Roberts 2010)
Case Studies:
Politics & Procurement

• The former Taiwanese President Chen Shui-Ban and his wife sentenced to life for complex corruption issues including procurement.

• Chen accepted $US 3 million in kickbacks for helping a contractor gain a government project.

(BBC News 2009)
MASP  (Graycar)

• Methods
• Activities
• Sectors
• Places
Methods

- Bribery
- Extortion
- Misappropriation
- Self-dealing
- Patronage
- Abuse of discretion
- Creating or exploiting conflict of interest
- Nepotism, clientelism and favoritism

etc
Activities

- Appointing personnel
- Buying things (Procurement)
- Delivering programs or services
- Managing disasters
- Making things (Construction / manufacturing)

- Controlling activities (Licensing / regulation/ issuing of permits)
- Administering (justice for example)

etc
Sectors

- Construction
- Health
- Tax administration
- Energy
- Environment & water
- Customs & Immigration
- Legal system etc

Places

- Countries
- Regions
- Localities
- Corporations
- Work places etc
### MASP

**Applied to Cases**

<table>
<thead>
<tr>
<th>Who</th>
<th>Method</th>
<th>Activity</th>
<th>Sector</th>
<th>Place</th>
<th>Benefit</th>
</tr>
</thead>
<tbody>
<tr>
<td>FBI specialist</td>
<td>Kickbacks</td>
<td>Procurement</td>
<td>Law Enforcement</td>
<td>National agency USA</td>
<td>Family Cruise</td>
</tr>
<tr>
<td>Alcatel</td>
<td>Kickbacks</td>
<td>Procurement</td>
<td>Communications</td>
<td>Corporations Costa Rica</td>
<td>Secure contracts</td>
</tr>
<tr>
<td>Darleen Druyan</td>
<td>Conflict of Interest</td>
<td>Procurement</td>
<td>Defence</td>
<td>National agency USA</td>
<td>Senior position</td>
</tr>
<tr>
<td>Taiwan President</td>
<td>Nepotism, kickbacks</td>
<td>Procurement</td>
<td>Land acquisition</td>
<td>Taiwan</td>
<td>Massive enrichment</td>
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<td></td>
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<td>Political</td>
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Analysis 1

Origin
• Bribe giver
• Bribe taker

Context
• Structural
• Situational

Nature
• Enticement  (to obtain unfair advantage)
• Extortion    (to obtain fair treatment)
Analysis 2

- a low volume of high value transactions (infrastructure/planes etc)
- a high volume of low value items (shredders/hospital items)
Combating Corruption

- Understand the opportunity structure
- Identify and implement controls
Opportunities

• motivated offender,
• a target
• absence of a capable guardian.
Opportunities

• Systemic Opportunities
• Localised Opportunities
• Monopoly of power
• Wide discretion
• Weak accountability
• Little transparency
• Perverse incentive systems
Red Flags:
Corrupt Procurement Practices

• Kickbacks
  – Bribes
  – Kickback Brokers: Agents & Local Representatives

• Bid Rigging
  – Bid Suppression
  – Complementary bidding
  – Bid rotation
  – Low Balling

• Front or Shell Companies

• Misrepresentation of facts (Ware et al. 2007)
Red Flags:

Kickbacks

- Improper bid selection
- Unnecessary middlemen or agents
- Officials accepting excessive gratuities
- Unusually wealthy officials
- Poorly performing contractors re-engaged
- Former officials in the supply chain
- Personal/family ties between suppliers/agents and officials

(Ware et al. 2007)
Red Flags: Bid Rigging

• Identical bids from different bidders
• Bids substantially higher than cost estimates or previous bids
• Winner subcontracting to losers
• Physical alteration of bid documents
• Line items substantially higher in some bids
• Wide gap between the winner and all other bidders

(Ware et al. 2007)
Red Flags: Bid Rigging (Cont)

• Evidence of collusion
  – (eg same handwriting, same errors)
• Qualified bidders do not bid
• Re-bids have the same ranking order as original bid
• Re-bids have substantial cost increases
• Mysterious price drops when new bidders enter

(Ware et al. 2007)
Red Flags:
Front Companies

- Unknown sub-contractors with no track record
- Subcontractor registered in a secrecy jurisdiction
- Invoices originate from secrecy jurisdiction
- Owners listed as law firms or incorporation agents, not individuals
- Subcontractor has no visible corporate facilities

(Ware et al. 2007)
Red Flags: Front Companies (Cont)

- Subcontractor point of contact is answering service or private residence
- Opaque ownership structure
- Friends/relatives of senior government officials are owners/managers of contracting companies
- Government officials unnecessarily visit company premises

(Ware et al. 2007)
Red Flags: Misrepresentation of facts

- Procuring entity does not keep minutes of public bid opening meeting
- Minutes do not have all required signatures
- Delays between bid opening and circulation of minutes to all bidders
- Records of bid evaluation are incomplete or absent
- Submitted bids contain alterations post-submission

(Ware et al. 2007)
Responses
International Political Will

• UN Convention Against Corruption (UNCAC)
  Article 9 – provides for anti-corruption measures in procurement

• OECD Convention on Combating Bribery
  Establishes standards to criminalize bribery of foreign officials in international transactions

• GRECO – Group of States Against Corruption
  Council of Europe’s body to monitor states’ implementation of anti-corruption measures
Responses
Domestic Political Will

• US Foreign Corrupt Practices Act (FCPA)
  Prohibits US entities from bribing foreign officials

• *Criminal Code Act 1995 (Cwth) Div.70*
  Prohibits Australian entities from bribing foreign officials
Responses
Operational Entities

- World Bank
- Asian Development Bank
- Organization of American States
  - Inter-American Convention Against Corruption
- African Union
  - Convention on Preventing & Combating Corruption
- Council of Europe
  - Criminal Law Convention Against Corruption
  - Civil Law Convention Against Corruption

Etc

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Responses
Tangible Controls

• Criminalization, investigation, prosecution, sanctions
• Anti-corruption agencies
• Structural reform
• Education, integrity building mobilization of the public
• situational countermeasures
Situational Responses

• Increase the effort to behave corruptly
• Increase the risks of corrupt behavior
• Reduce the rewards of corrupt behavior
• Remove excuses for corrupt behavior
<table>
<thead>
<tr>
<th>Controls (1)</th>
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<tbody>
<tr>
<td><strong>Systemic Controls</strong></td>
</tr>
<tr>
<td>• Increasing the moral cost of corruption</td>
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<tr>
<td>• Creating a culture of integrity</td>
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<tr>
<td>• Vigilant media</td>
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<tr>
<td>• Civil society oversight</td>
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<tr>
<td>• Criminalization and penalties</td>
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## Controls (2)

<table>
<thead>
<tr>
<th>Systemic Controls</th>
<th>Localised Controls</th>
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<tbody>
<tr>
<td>• Modification of conflicts of interest guidelines</td>
<td>• Decision making process transparent and available for regular and random audits</td>
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<tr>
<td>• External auditing for party finances and campaigns</td>
<td>• Random integrity testing</td>
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<tr>
<td>• Changing the burden of proof for demonstrating the legality of officials’ wealth</td>
<td>• Rotating agents</td>
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<tr>
<td>• Simplifying regulatory framework</td>
<td>• Creating a code of ethics</td>
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<td>• Workplace performance indicators</td>
</tr>
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<td>• CCTV or others surveillance where appropriate</td>
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Dynamic

OPPORTUNITY

EVASION

CONTROL