Procurement Fraud

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Agenda

- Size of the problem
- What is fraud?
- The typical fraudster
- Red flags
- Bribery Act 2010
- Prevention
Fraud losses

- UK £52bn
  - Public £20.6bn
  - Private £20.2bn
  - Charity £147m
  - People £9.1bn
What is fraud?

A criminal activity where deception is used for personal gain or to cause a loss

Three offences established by the Fraud Act 2006

1. False representation
2. Failure to disclose
3. Abuse of position
What is procurement fraud?

‘A deliberate deception intended to influence any stage of the procure-to-pay lifecycle in order to make a financial gain or cause a loss.’ (NFA)

‘Fraud within the procurement lifecycle of a product or service, not forgetting long term maintenance contracts.’ (Paul Guile, CIPS)
Procurement fraud

- **Procurement** fraud costs Government £2.6bn
- PWC global economic crime survey:
  - Most frequently reported asset misappropriation (69%), **procurement** fraud (29%) and bribery/corruption (27%).
  - Most commonly within **vendor selection** (61%) a **bidding process** (45%), **delivery** (43%)
- Government, energy, utilities and mining, engineering/construction & transportation/logistics
Case Study

KENT ENERGY CHIEF ROSS KNOWLES JAILED FOR £2M FRAUD

• Secret agreement with energy supplier
• Added 0.04 p/kWh ‘commission’
• Paid into his own bank account
• Reputational as well as financial loss
Case Study

NHS PRICE FIXING SCAM

• Sharp rise in generic drug prices
• Whistle-blower claimed ‘secret meetings’
• Collusion between manufacturers
• No criminal charges.
• Out of court settlement after a £150m claim filed
The typical fraudster, no such thing

- Pressure for results
- Financial
- Revenge

- I’ve earned it
- Nobody will suffer
- It’s a ‘one off’

- No policy or procedures
- Custom & practice
- Loop holes

The Fraud Triangle
Red flags: pre contract

- 20% + pre-qualified firms fail to tender
- Bid opening to contract signing > 7 months
- Less than 3 submissions
- Significant differences in submission pricing
- Submissions arriving at same time or with similar/unusual wording
- Disclosure of confidential information
Red flags: pre contract

- Procurement staff being presented with ‘done deals’
- Inappropriate use of single source suppliers
- Contract values split to avoid EU procurement legislation
- No records of potential conflicts of interest
- Lack of gifts & hospitality register
Red flags: pre contract

- Inappropriate relationship with suppliers
- Membership of secret/restricted organisations
- No anti-fraud culture!
Red flags: post contract

- Inappropriate contract extensions
- No (or weak) contract/supplier management
- Inflated costs
- Substandard materials
- Inflated and/or duplicate invoicing
- Manipulating of performance figures
Red flags: post contract

- Inappropriate purchase of personal goods/services
- Contracts signed by unauthorised staff
- Mandate fraud
- Undisclosed side deals
- No contract at all…
Case Study

MAINTENANCE CONTRACTOR DEFRAUDS £100K

• Facilities management contract worth £1.5m over 3 years
• OJEU process followed. 4 contractors identified.
• All vetted except the previous supplier (who won)
• Contract management stopped after first year
• 2 years of automatic approvals for no work
Impact of procurement fraud

- Financial
- Reputational
- Health and Safety (loss of life)
- Impact on services
- Time
- Legal challenge
Bribery Act 2010

MAGISTRATES COURT CLERK
CONVICTED UNDER BRIBERY ACT

• Munir Patel, 22, worked at a magistrates court
• £500 not to add convictions to data base
• 3 years for bribery, 6 for misconduct in a public office
Bribery Act 2010

- Why was this a surprise?
- Bribery Act came into force 1 July 2011
- Convicted only 3 months later
- Not the SFO; not big business.
- Most significant (draconian?) piece of legislation introduced in decades!
Bribery Act 2010

- Introduced 4 main offences
- Bribing (active bribery)
- Being bribed (passive bribery)
- Bribing a foreign official; and…
- Failure of a commercial organisation to prevent bribery
Bribery Act 2010

- Section 7 offence only applicable for active bribery offences
- No offence for failing to prevent being bribed
- Statutory defence if adequate procedures in place
- Whole industry created around compliance
- No need, can self assess and help yourself!
Bribery Act 2010

- Proportionate procedures
- Top level commitment
- Risk assessment
- Due Diligence
- Communication (including training)
- Monitoring and review
Prevention: policy

- **Agreed** procurement strategy
- **Clear** policy and procedures
- **Communicated** to relevant people
- Not left on a virtual shelf gathering dust
Prevention: process

- Review your own **compliance**
- Work with (not against) **Internal Audit**
- Have an up-to-date **risk register**
- Real time **data analytics** & reporting
- **Management checks**…
Prevention: people

- Promote **whistleblowing**
- Number one in detecting fraud and corruption
- Training & competencies
- **Rotation**
- **Rewards and sanctions**
Questions?

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