PROJECT MANAGER TO COMBAT CORRUPTION IN PROCUREMENT: SOME ISSUES WITH SPECIAL REFERENCE TO SRI LANKA

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University of Moratuwa, Sri Lanka.
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INTRODUCTION

The President of the World Bank Mr. James Wolfensohn, at the 1996 annual meeting, referred to corruption as a major barrier to sound and equitable development. Hon Ian Sinclair MP, in his opening address to the all important forum on International Procurement held in Sydney, stated that the impact of corruption is particularly harmful for developing countries since they must build a climate of confidence to gain the real benefit of increased flows of foreign investment. Sinclair (1997) further noted that the perception of uncontrolled corruption can also destroy faith in the overall effectiveness of government. His address was a splendid opening remark and an eye opener to all the practitioners who engage in the procurement of work either directly or indirectly and who may or may not be corrupt.

Corruption in procurement of work, especially in international contracts where the funds are generated through credit or loan arrangements, is practiced widely and sometimes openly. Some even defend this habit of offering bribes to the decision makers as a "state-of-the-art" in the competitive business environment. Corruption can take place in many forms. Offering or accepting money, commodities, assets, leisure trips, sex, appointments, promotions, or even small hampers to take or not to take vital decisions can be considered as corrupt practice. Noonan (1984) noted that bribes have been offered as small as US$ 2.50 to a voter and as much as US$ 12,000,000 to a prime minister and his associates. The provider is equally corrupt as the receiver, whoever initiates the process, although some argue that it has to be done to obtain business in a corrupt environment.

There are many efforts currently being undertaken by leading International funding organizations in dealing with corrupt practices in procurement. The donor agencies now attempt to influence the countries for good governance, transparency and accountability in procurement through control and reforms (Stokes 1997). Some of these attempts undertaken by the World Bank and the Asian Development Bank, which are applicable to Sri Lanka can be summarized as follows.

World Bank Approach
- Economic Policy Reforms: these measures help governments to remove administrative mechanisms, which are fertile grounds for corruption.
- Institutional Reforms: these measures assist governments in building institutional strength and achieving greater transparency and competition through new procurement laws and regulations.
• Fiduciary Policies: these measures support good governance and decreased corruption through the achievement of the highest possible levels of transparency.

Asian Development Bank’s Approach
• Creation of efficient and effective public management in order to strengthen accountability.
• Promoting participation in the development processes by fostering interaction between the public and private sectors.
• Promoting transparency by adopting a policy of disclosure of information.
• Helping to build and strengthen legal frameworks in developing countries to foster predictability and good governance.

The Institution of Engineers, Australia conducted a seminar in 1997 with the aim of providing an opportunity to learn about the impact of corruption on long-term national economic activity and on managerial and commercial strategies. Many issues were discussed at this seminar and all the presenters promoted measures for good governance, transparency, accountability and predictability in procurement procedures for curbing corruption in procurement. It is not the intention of this paper to discuss these measures in detail, and it is suggested that a seminar in Sri Lanka is the right forum to discuss such measures applicable to Sri Lanka.

This paper attempts to discuss the Project Manager’s involvement in fighting corruption in procurement of projects where a Project Manager is appointed to manage the total process. It is a known fact that the Project Manager is appointed at the inception of the project, even before the feasibility of the project is fully investigated, so that he can take control of the total process from the identification of the project to the commissioning including the maintenance period. Therefore, a Project Manager is the best person who can combat and eradicate corruption in the decision making process of the procurement of work. This paper is based on the author’s experience (case studies) as a Project Manager for various government projects, including World Bank funded projects.

PROJECT MANAGER

A Project Manager can be appointed by the client organization, who initiates the project in different ways. One such appointment is a qualified experienced professional, who has project management skills, from the client organization itself with the understanding that they take control of the organizing, planning, and coordination of the total process including the procurement procedure. This Project Manager is called the “Client’s Expert”, and is the best scenario of Project Management to combat corruption. Once the relevant authority is given, this Executive Project Manager can take control of the complete process with, if necessary, a second Project Manager reporting to them on design and construction processes (Walker 1984).
The other alternative is to appoint an independent professional or organization either through negotiation or competition. It is best to approach a well-reputed body, who has a good track record of impartiality and decency in dealings, and negotiate a contract for project management services. If the client organization is a government department it is always best to approach another government organization, which has project management experts for this appointment. Some government officials may not divulge crucial information such as tender decisions to a person from the private sector. Due to this reason they may not allow the Project Manager to participate in the decision making forums. Therefore, it is very important that the independent Project Manager address this situation very early and develop a mechanism to overcome the problem.

The Project Manager’s duties, responsibilities and authorities should be well defined and documented. It is not the intention of this paper to explain these since the author assumes that the reader is well conversant with such aspects. Should the need arises, the readers can refer to Kerzner (1997) for a comprehensive account of Project Management concept, AIPM (1995) for a thorough understanding of the complete role of project management in the construction industry, and Walker (1984) for a detailed explanation of Project Manager’s duties, responsibilities, and authority.

It should be noted that the presence of the Project Manager for overall planning, organizing, and co-ordination of the project should be made aware to all the parties and individuals who interact with the project. At the outset, if the client is a government department, the respective heads, secretaries to ministers, and if necessary, the cabinet of ministers themselves must be informed. If this is not done, it is always a way of providing ammunition to the person who resorts to challenge the presence of the Project Manager at crucial meetings. International Project Managers will do their best if they are aware of the local government procedures and take precautionary steps to see that their client organization obtain all the necessary approvals from the relevant authorities for the Project Manager’s role and authority in procurement procedure. By this way, when the Tender Boards and Technical Evaluation Committees are appointed for the procurement process, the presence of the Project Manager and his involvement could be informed to them. Since the Project Manager is appointed at very early stage, there is little chance that his involvement will be objected to by the others. All the interest will surface once the initial stages are finalised and the money value is visible to interested parties.

CLIENT’S REPRESENTATIVE

If the client organization is a government department or a ministry it is important to appoint a Client’s Representative to the project in addition to the Project Manager. There are established concepts on “Client’s Committees” and “Client’s Representatives” who can support the Project Manager in very important activities. Readers are advised to refer to Austin and Neale (1984) to observe the relationships, responsibilities, and authority of the Client’s Representative (or Client’s Committee) in the Project Management Team. They will act as the focus or the hub where all the communication between the Client organization, government ministries and the
funding agency will be planned, generated, coordinated, and implemented by them. Project Manager must also be involved in this process taking control of the planning, programming, and documentation of the client’s activities.

One may raise the question of the wisdom in appointing a Client’s Representative in addition to the Project Manager since the Project Manager can undertake the role of the Client’s Representative as well. It is the degree of authority, accessibility to information, and the level of participation that will necessitate such an appointment. The Client’s Representative participates in the high level decision making process meetings and the Project Manager participates in the project level decision making process. The Client’s Representative is closer to the Client organization, ministries, and the top level executives of the funding agency and hence it is easier for him to get the intended work done according to the project requirements. It is always better to have a person who has more influence and authority in dealings between the Client organization, government, and the funding agency.

The Project Manager is closer to the project team and evaluation teams and it is easier for the Project Manager to get the intended work done through them and channel through the Client’s Representative for necessary action. However, it is best if the Project Manager can also participate in the high level meetings as a facilitator, coordinator and sometimes as an observer with some influence in the proceedings. By this way the Project Manager can indirectly control the whole process including the high level decision making process. If anyone challenges the Project Manager’s involvement, there is always a fall back position and control through the Client’s Representative. The Project Manager’s involvement and his communication network in the decision making process is given in Figure 1.

FIGURE 1
PROJECT MANAGER'S INVOLVEMENT IN FUNDS NEGOTIATION

The project may be funded as an investment by the government, or may be negotiated through aid, loan or credit arrangement by a donor agency. There are specific financial regulations that have to be adhered to by the client organization in raising the funds. Project Manager should be fully conversant with these since any lapses in the process may lead to unnecessary problems in later stages. It is not advisable to totally depend on the Client organization or the Client's Representative to follow the regulations since they may not have undertaken similar type of negotiations earlier.

If correct steps have not been taken for crucial decisions, these may be raised by the interested parties at subsequent phases jeopardizing the future of the project. Since this will lead to investigations which will definitely drag the project, contractors may resort to unwanted practices to silence the critics. Perhaps that may be the motive of such people so that they can make quick money. The Project Manager should not make any room for these by effectively planning the Client’s Representative’s activities so that the right procedure is taken at the crucial decisions. They should organize, implement, and record all the actions, decisions, approvals, and follow up procedures so that the funds are negotiated according to a set programme.

PROJECT MANAGER'S INVOLVEMENT IN TENDER PROCEDURE

There is a specific procedure that has to be followed by the decision makers with regard to tenders. This may differ from organization to organization and country to country. This tender procedure will be governed by the requirements of the country in terms of good governance, transparency, and accountability (Ministry of Finance 1997). The procedure may also vary with the funding agency. For example, in the case of World Bank funded projects, policies and procedures of the World Bank (1995) has to be followed for procurement of bank-financed projects. However, if the tender procedure of the client organization or the government is different to that of the funding agency, a parallel process has to be executed so that the approvals from all the parties will be obtained for the decisions taken in the procurement procedure. It is again not the intention of this paper to discuss in detail the steps and actions of the tender procedure. The reader could refer to Ministry of Finance (1997), FIDIC (1994) or World Bank (1995) to obtain more details about standard tender procedures.

The Project Manager should be fully aware of these tender procedures since he must prepare action plans (programmes) to obtain the approvals. The procurement procedure should be divided into phases so that each phase can be given specific time frame. The following nine stages can be considered as the necessary stages to formulate a general procurement procedure.
1. Project strategy including feasibility.
2. Preparation of Terms of Reference (TOR) and Letter of Invitation (LOI).
3. Preparation of prequalification documents.
4. Prequalification of tenderers.
5. Preparation of tender documents.
6. Obtaining tenders.
7. Opening of tenders.
9. Award of contract.

The project strategy involves the establishment of a procurement method, form of
tendering and preparation of programmes. Projects may be organized and
implemented in accordance with different strategies. The available procurement
methods are:
(a) Traditional Procurement systems,
(b) Design and Build (Package deal or Turn-key) contracts,
(c) Management Contracting,
(d) Construction Management,
(e) Design, Build and Operate (DBO), and
(f) Design, Build, Operate and Transfer (DBOT).

Choosing the best strategy for a particular project depends on factors such as the
nature and complexity of the project, the access to finance, life cycle cost, the
technical and administrative capabilities of the employer, the general political
environment, Client’s requirements, and the contractor’s proposal.

Subsequent phases of the tender procedure will vary with the selected project strategy.
For example, in the case of traditional procurement systems, the Project Manager
should co-ordinate the appointment of both the consultant and the contractor, whereas
design and build type will involve the appointment of a design and build contractor
using two-stage selective tendering procedure (JNCC 1983). The Project Manager
should understand that different project strategies demand different approaches. They
must have dynamic action plans to suit the particular situations so that important
activities are not missed out. It is wrong to assume that a standard tender procedure
would be applicable to any procurement strategy. Those should be customized for the
selected project strategy in such a manner that no subsequent interference can be made
or the process is challenged by the interested parties.

It is imperative that the Project Manager prepares a master programme for the above
phases with operational sub-programmes for independent stages, with clear indication
of dates and resources. There are government financial regulations that should be
adhered to in these steps. Approvals from relevant Technical Evaluation Committees
(TEC), Tender Boards (TB), and the Cabinet (of ministers) must be obtained for some
documents and decisions. The approval authority will vary with the type, size, nature,
and the complexity of the project, hence utmost care must be exercised to obtain the
correct approval. The Project Manager should develop the above programmes with
due consideration given to these very important approvals. International Project
Managers are well advised to appoint local representatives, who are well conversant
with the local government procedures, into the project management team.
The Project Manager must participate in all of the TEC meetings as a facilitator and provide assistance for the evaluation procedure. Since the subsequent decisions are taken based on these evaluation reports, the Project Manager must take all the precautionary steps necessary to see that the evaluations are done impartially and correctly as described in the evaluation procedure given in the documents. No room must be allowed for the rejection of the TEC reports on the grounds that they are unprofessionally undertaken with subjective judgment. It is advisable to note that the lowest tender may not always be the best offer (Miller 1997).

As explained earlier, the members of the TEC are fully aware of the presence of the Project Manager and their role, and hence can indicate little resistance to his involvement. In fact the author's experience is that TEC members highly appreciate the presence of the Project Manager. Being the person who is fully aware about the project history and the future activities, the Project Manager can play a key role in the evaluation process by providing technical expertise and procedural advice. In most of the cases, the Project Manager assists in the preparation of the TEC reports to the required quality expected by the authority. With this strong involvement at the evaluation level and the decision making level, the Project Manager can drive away the corrupt elements who attempt to interfere with the decisions for ulterior motives.

Funding agencies also require the tender evaluation to be done according to their set procedures. They may appoint an independent evaluator or may request the Client organization to carry out the evaluation. In the case of independent evaluation, the Project Manager should closely operate with them with regard to the evaluation procedure so that the outcome of both evaluations will be the same. The Project Manager may incorporate the provisions in both the evaluation schemes and prepare one evaluation procedure acceptable to both parties. In that way, the Project Manager streamlines the process with a clear cut procedure and outcome. The resultant reports will be acceptable both to the government Tender Board and the funding agency's local representative.

TEC will report to the TB for decisions. TB will recommend the decisions to the Ministry and the Cabinet (of ministers). Once the TEC correctly reports with all the facts, it will be difficult for the TB to overlook the facts and come to a different conclusion. However, it is always advisable that the Project Manager and the Chairman of the TEC participate in the TB meetings, at least as observers. By this way, the Project Manager can provide the clarifications needed with regard to the contents of the TEC report since the TB may not go through all the documents. The presence of the Client's Representative, the Project Manager, and the Chairman of the TEC at these TB meetings is, in fact, very helpful to the total process since it expedites the matters. Once again, the author's experience is that the TB members highly appreciate this involvement. It should be noted that the Project Manager, with the help of the Client's Representative, should organize, plan and co-ordinate all the TB meetings so that the decisions are taken appropriately with least time.

The Project Manager must be very careful about the priorities in the case of approvals of the TB and the funding agency for crucial decisions. While it is most appropriate to embark on a parallel process, it may be sometimes advisable to obtain the government TB approval before intimating the results of the evaluation to the funding agency. If
the TB disagrees with the evaluation report and initiates fresh evaluations, the client organization will be in a difficult situation to report to the TB that it has already sent the evaluation report to the funding agency without their approval. On the other hand, it may be worthwhile to obtain the funding agency approval before the TB decision so that the TB can be persuaded to accept the recommendations. When the funding agency approval is already on record, the TB may not call for fresh evaluations unless it is essential. This will definitely minimize the untoward interference with the decisions. However, this strategy has to be executed with extreme care since the TB may consider it as interfering with their business.

If the TB insists on their approval prior to the sending of the reports to the funding agency, it is best if the reports are included with the reference clauses of the regulations at appropriate places. The Project Manager may be able to show the TB that the reports are in order and done according to strict adherence to the listed guidelines. Tender Board will then have to provide valid reasons for rejecting the recommendations.

However, the strategy depends on the project, funding agency, government procedure, and the local financial regulations that have to be followed by the Tender Board. Therefore the Project Manager must study all the aspects before choosing the appropriate strategy. According to a study undertaken in Sri Lanka (Jayasinghe 1995), delays in procurement procedure during pre-contract stage is well above 100%. The prime reason for this situation was found to be the delay in obtaining the required approval. The Project Manager must obtain initial approval to the decision making process programme from all the parties concerned well before the decisions are made so that the process can be implemented smoothly and effectively. The scenario of having a previously approved programme, with clearly identified priorities and parallel processes, will discourage the interested parties to call for a different route.

PROJECT MANAGER’S INVOLVEMENT IN THE TENDER AWARD

Decisions with regard to the award of tender are usually taken at top level forums. TEC evaluation reports and the TB recommendations are forwarded to these decision making bodies by the Client organization for approval. In the case of foreign funded large projects, the Cabinet (of ministers) is the ultimate authority of the government. The approval of the parent organization of the funding agency may also be required prior to the issue of the letter of acceptance. It is the duty of the client organization to co-ordinate these activities so that the decisions are taken before the execution of the contract. The Project Manager will do his best to plan and organize the appropriate activities to expedite the process. The Project Manager must be able to feel the pulse of these forums and identify the priorities, as in the case of TB approvals, when they prepare the strategic action plans.

In most of the cases, the Client’s Representative and the Project Manager do not have much control over the activities of the process beyond the level of Client organization
as seen in Figure 1. However, the Project Manager must execute a strategic action plan so that the decisions are taken on time. If the decision making bodies drag the process, there will be ample opportunities for the interested parties either to offer or accept bribes to divert the decision making process for a different result. It is said that the “element of surprise” is the key for the successful award of tenders without corruption. The Project Manager must be able to implement the planned programme meticulously so that the award is made before the corrupt elements hatch their eggs. Therefore, the Project Manager must be indirectly involved in the process of producing ministry reports, money allocation reports, foreign ministry observations, financial ministry covering approvals, cabinet papers, prime minister approvals and the like. How the Project Manager will be able to execute this will mostly depend on his interpersonal relationships and knowledge of local conditions. It is the Project Manager’s management skills combined with the Client’s Representative’s administrative skills, that will minimize the delays and unnecessary interference from other elements. When a strong Project Manager and a Client’s Representative, who handle the project from inception, are around it is not easy for anybody to attempt a diversion.

WHO CAN SOLICIT BRIBES

It must be noted that if the Project Manager is corrupt then he will be the first party who can demand bribes. This paper proposes the Project Manager to prevent corruption hence the idea is to promote professional project management practice sans corruption.

Offering and accepting bribes are not new to the world. It has been practiced from ancient days to the current time and it seems that it will continue to be there in the future. Even prime ministers have taken bribes in modern society (Noonan 1984). It is not easy to identify an exhaustive list of the people who can take bribes in the procurement of work. However, the Project Manager must be aware of the possible personnel at the relevant level of the decision making process. An example list is given in Table 1.

**TABLE 1**

It is not the intention of this paper to explain the ways these people can solicit bribes at the respective stages. Experienced Project Managers can easily identify the possibilities and may expand the list given in Table 1.

Although this paper dealt with the subject of prevention of corruption using the Project Manager as a co-ordinator; there are different scenarios which even the Project Manager may not be able to avoid. Any person listed in the above Table 1 can easily demand a bribe from the selected bidder on the premise that the bribe is necessary to award the tender to that party. The bidder, without knowing that he has already secured the contract, may well obey the corrupt element. The other situation is that the
competitors from the donor country will pressurizing the government ministry officials (perhaps the minister) through their diplomatic missions.

CONCLUSION

Corruption in procurement of work, specially in the international market, prevents the genuine bidders from participating in the bidding process. Prospective bidders who are capable of undertaking the work to the satisfaction of the Client may keep away from the unfair competition since they do not want to resort to corrupt practices. Therefore, only the corrupt elements who may not have the required skills and knowledge may be available for the procurement of work. This is not a healthy environment for the client organizations as well as to the entire construction industry. The situation will be worse if the past history indicates corruption in the deals. Hence it is imperative that actions are launched to curb the corruption in procurement of work.

The Institution of Engineers, Australia conducted a seminar in 1997 with the aim of providing an opportunity to learn about the impact of corruption on long-term national economic activity and on managerial and commercial strategies. Many issues were discussed at this seminar and all the presenters promoted measures for good governance, transparency, accountability and predictability in procurement procedures for curbing corruption in procurement. Some of these measures have already been included in tender procedures used by the World Bank and the Asian Development Bank. It is not the intention of this paper to discuss these measures in detail, and it is suggested that a seminar for Sri Lanka is the right forum to discuss such measures applicable to Sri Lanka.

This paper explains the strategic introduction of a Project Manager in procurement procedure for fighting corruption. Project Management activities of programming, negotiation and decision making were highlighted in funds negotiation, tender procedure, and tender award. It is recommended that the Project Manager is appointed at the inception and that he be given the authority to coordinate all the activities including the procedures in selecting Consultants and Contractors. The Project Manager should be involved in the decision making process including the Tender Boards and Technical Evaluation Committees through the Client’s Representative as shown in Figure 1.

REFERENCES


Figure 1. Project Manager's communication network
Table 1. Who can solicit bribes in the procurement process

<table>
<thead>
<tr>
<th>PHASE</th>
<th>POSSIBLE PERSONNEL WHO CAN SOLICIT Bribes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Project Strategy</td>
<td>Client’s Representative (CR), Head of Department (HOD)</td>
</tr>
<tr>
<td>2. Preparation of TOR, LOI</td>
<td>CR, HOD</td>
</tr>
<tr>
<td>4. Pre-qualification. Process</td>
<td>CR, TEC members, Tender Board (TB) members</td>
</tr>
<tr>
<td>5. Tender Documents</td>
<td>CR, TEC members</td>
</tr>
<tr>
<td>6. Obtaining Tenders</td>
<td>CR, HOD, TB members</td>
</tr>
<tr>
<td>7. Opening of Tenders</td>
<td>CR, HOD, TB members</td>
</tr>
<tr>
<td>8. Evaluation of Tenders</td>
<td>CR, TEC members, TB members</td>
</tr>
<tr>
<td>9. Tender Award</td>
<td>CR, HOD, Ministry Secretaries, Ministers</td>
</tr>
</tbody>
</table>