

PREVENTION in focus

When conflicts of interest in procurement result in criminal convictions



Procurement within government agencies has long been known as a high-risk area for fraud and corruption

Two criminal prosecutions following investigations by the Crime and Corruption Commission (CCC) highlighted the importance of governance and transparency in the procurement processes for government contracts.

What public sector officers need to know

Procurement within government agencies has long been known as a high-risk area for fraud and corruption. CCC investigations continue to demonstrate that some government agencies are not effective at implementing processes to protect themselves from fraud and reputational damage.

Public sector officers involved in tendering may be dismissed, or be subject to criminal prosecution and custodial sentences, if they:

- Deliberately favour a potential supplier or cause a detriment to others
- Fail to ensure fairness to all parties throughout the whole tendering process
- Release confidential information to friends or associates
- Fail to declare and properly manage their conflicts of interest
- Obtain any form of advantage from tenderers for themselves or others, such as “kickbacks”, gifts, or favours.



Implementing effective processes can protect government agencies from future fraud and reputational damage



Procurement frameworks

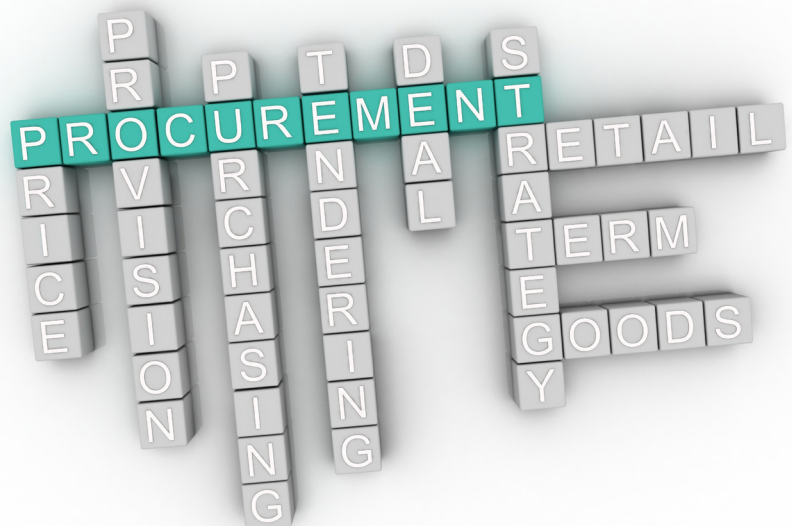
Government agencies must have frameworks in place to ensure:

- Internal controls and reporting processes identify and prevent attempts to corrupt procurement processes
- Each stage of every procurement process or tender is planned, documented, and can be subject to independent review
- All procurement is for identified needs and delivers value for Queensland taxpayers.

Key components of effective procurement frameworks

Key components of effective procurement frameworks that are corruption-resistant include:

- Procurement officers and their supervisors routinely participate in refresher training in their agency's procurement and integrity policies and procedures
- Procurement officers understand what comprises sensitive information and the importance of safeguarding it from improper release
- Effective policies and procedures to detect and prevent fraud and corruption risks
- Procurement processes being regularly reviewed by internal specialist areas such as Internal Audit and the Ethical Standards/ Investigations areas
- Processes that result in anomalies being independently examined to identify potential wrongdoing
- Undertaking action where deliberate breaches of policy or process have been identified.





Case study

Procurement fraud and misconduct leads to prison sentence

Following a CCC investigation, a former Infrastructure and Operations Manager at Racing Queensland (RQ) was charged with fraud and misconduct in relation to public office, both of which are criminal offences.

On 15 February 2021, the former employee pleaded guilty to fraud in the Brisbane District Court in relation to contract procurement in five separate contracts awarded by RQ between June 2014 and November 2015 for works at several race tracks operated by RQ.

During their employment at RQ, the employee's role included arranging tenders for the five contracts. As a favour to the employee's friend and co-accused, who was bidding for the RQ work, the employee disclosed confidential information about competitors' pricing and RQ's budget allocation for those works. Although the employee was fully aware of obligations to declare a conflict of interest, they hid the association with the contractor from RQ.

Despite finding that the former employee did not personally receive any financial benefit from their actions, their actions had given a friend considerable advantage and subverted the proper commercial tender process. They were convicted and sentenced to two years imprisonment, wholly suspended for three years.

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Case study

Contract corruption leads to prison sentence

A former Director of Engineering at Etheridge Shire Council and the director of an engineering company were prosecuted for secret commission offences following another CCC investigation.

On 29 March 2021, the former employee pleaded guilty in the Cairns District Court to secret commission offences in relation to awarding a contract to an engineering company in September 2013.

The Court heard the council employee corruptly obtained approximately \$120,000 in payments, which were made to the employee's wife between September 2013 and December 2016, in exchange for ensuring the Council entered into a contract with the engineering company. The contract was worth just over \$1 million. In addition, the director of the company who was awarded the contract was an associate of the employee – a fact that the employee failed to disclose to the Council.

On 29 March 2021, the former council employee was sentenced to five years imprisonment, suspended after 20 months, with an operational period of five years.

On 25 August 2021, the director of the engineering company was sentenced to three years imprisonment, suspended after nine months, with an operational period of five years.



Related publications

The CCC has previously published guidelines and corruption prevention documents noting competitive procurement as a major corruption risk area for government agencies.

These include:

- [*Prevention in focus: Personal relationships, professional boundaries: how to manage potential corruption risks*](#) (April 2020)
- [*Prevention in focus: ICT procurement – what are the corruption risks?*](#) (August 2018)
- [*Managing conflicts of interest in the public sector – guidelines and toolkit*](#) (November 2004)
- [*Probity plan checklist for procurement*](#) (June 2021)
- [*Probity as a means of managing corruption risks in procurement*](#) (June 2021)

The resources mentioned above include outcomes from previous CCC investigations.

Lessons learned

- These cases reveal the importance of controls in relation to procurement processes, and the issues that can occur where there is a failure to declare conflicts of interest combined with a lack of direct supervision or oversight across the life of the procurement project.
- The implementation of processes to identify and assess corruption risks at each stage of procurement will provide agencies with greater oversight to manage or alleviate any issues arising. It is critical to establish a framework for employees to manage conflicts of interest, including declaring and reviewing identified conflicts at each relevant stage of the procurement process.
- Releasing confidential information to friends and associates to give them an advantage in a procurement process is a serious criminal offence – even if an employee gains no benefit and believes it will result in a better outcome for the agency.
- Failing to properly declare and manage conflicts of interest can have very serious consequences. Agencies must ensure they develop and implement a systemic approach to dealing with conflicts of interest, with a focus on identifying areas of risk and describing the kinds of conflicts of interest that are likely to occur.
- Agencies should implement accessible policies and procedures that provide clear guidance about conflicts of interest, and raise staff awareness about their obligations to fully disclose any conflict – potential, perceived or actual – including those arising from secondary employment, personal associations and other commitments.



More information

- [*Prevention in focus: Procurement fraud attracts prison sentence*](#) (June 2019).

Click 'here' to read further [Prevention in focus publications](#).

