



International Federation of Consulting Engineers
The Global Voice of Consulting Engineers

Understanding and minimizing corruption

FIDIC Briefing Note

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Background

The international engineering federation FIDIC (the International Federation of Consulting Engineers) believes that its member associations and their members should strive to achieve the highest degree of quality and standards.

FIDIC has always had policy statements that it expects its members to follow to ensure high standards of service in the infrastructure industry. These standards are reflected in FIDICs contracts, policy work, events and committees.

Understanding and minimising corruption

Where corruption occurs

Corrupt practices can occur at all stages of the procurement process: In the marketing of engineering services; during the design; in preparing tender documents (including specifications); in pre-qualifying tenderers; in evaluating tenders; in supervising the performance of those carrying out the construction; issuing of payment certificates to contractors; and making decisions on contractors' claims.

Business development

The selection of a Consulting Engineering Firm is a most important task and is the basis for the essential and mutual client-consultant trust. The various selection criteria advocated by FIDIC, to be applied in judging a firm's suitability to carry out a project, are completely undermined if the selection process is tainted by corruption. The preparation of a short list is an important part of the process, and must be carried out openly and transparently.

The Consulting Engineering Firm should promote availability and capability to perform consulting services only on the basis of quality considerations and should not seek work which calls for expertise beyond their particular training and experience.

A bribe of whatever form, intended to influence an evaluation committee during the prequalification phase, or later during the final retainer discussions, whether directly or indirectly (using mechanisms such as scholarships, actions of agents, or currency exchange facilities) constitutes unethical behaviour.

Design, specification preparation and pre-qualification

In the preparation of designs, and later the specification documents, the Consulting Engineering Firm must pursue the best interests of the Client. The Consulting Firm must not accept remuneration from suppliers which are under consideration for incorporation into the design, and must avoid references to brand names. The Consulting Firm must not be influenced to use products or processes because they are owned or promoted by organizations with whom the Consulting Firm may have an affiliation, except where the Consulting Firm has a role, known to the Client, as an equity participant in (for example) a design and build project.

The delivery system or contractual approach recommended to the client must be the most appropriate for the project. Similarly, in evaluating potential tenders during a prequalification period, the best interest of the client must be paramount. This usually means the fostering of competitive tendering.

The use of FIDIC forms of Conditions of Contract, which are balanced documents developed and revised in the light of experience, is recommended. Even more importantly, a tendering and evaluation process conducted with transparency and expedition will make more likely a contract award which will be predicated upon proper factors. The key factors and method of evaluation should be established in the introductions to the tenderers, in order that the subsequent evaluation will be objective and fair to all tenderers.

Construction supervision and claims

During the course of the construction, the Consulting Engineering Firm is charged with the responsibility of exercising his discretion in accepting materials, expressing satisfaction or approval, determining quantities and value, and giving opinion, consent or decision. The proper and impartial

exercise of that responsibility, in the client's best interests, is at the core of the Consulting Firm's role and is the essence of the FIDIC system.

Consistent with the objectives of this policy statement, it is noted that the FIDIC DesignBuild and Turnkey Conditions of Contract, as with the laws of many countries, provide that bribery by the contractor is a basis for contract termination, much like the more conventional bases for default.

The Consulting Engineering Firm must not offer or accept remuneration of any kind which may be perceived to, or in reality, attempt to influence the selection or compensation procedure or affect the impartial judgement of the Consulting Engineering Firm.

FIDIC recommends that:

- Member Associations and their members (firms and individuals) should internally develop and maintain systems to protect their high ethical standards and codes of conduct. They should co-operate candidly with other organizations which seek to reduce corruption. Member firms should associate themselves only with other firms who share similar high ethical standards.
- Member firms should have a commitment to integrity through the implementation of a Business Integrity Management System involving all levels of management and every employee, focusing on corruption prevention.
- Members Associations should assist member firms in developing a Business Integrity Management System, by providing guides, training and general support.
- Member firms should have access to an independent evaluation of the Business Integrity Management System with guidelines developed by the profession.
- To reduce the opportunities for corruption in the process of procurement of engineering and construction services, qualification-based selection procedures and competitive tendering, respectively, should be used.
- In implementing particular projects, Consulting Engineering Firm should recommend to their clients the most appropriate and objective procurement process or delivery system, consistent with the demands of the project.
- Funding agencies should be kept fully informed by the Consulting Firm of the procurement steps as they occur. The Consulting Firm shall notify funding agencies of any irregularities, in order that cancellation or other remedies may be exercised, in accordance with the loan agreement.
- Member firms should be aware of local law regarding corruption and should promptly report criminal behaviour to the proper law enforcement authorities.
- FIDIC Member Associations should take prompt disciplinary actions against any member firms found to have violated the FIDIC Code of Ethics. This could include, among other actions, expulsion, and notification to public agencies. Procedures should be established by member associations to assure that the due process of law is afforded in such cases. The procedure for determining whether the expulsion of a member firm is warranted, should be conducted confidentially but expeditiously.
- Member associations should foster and support the enactment of legislation in their own countries, which is aimed at curbing and penalising corrupt practices.

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Endnotes