

News and Views

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PRESIDENT'S MESSAGE - Fall 2006

By Larry Widmer, CPPB

As we begin the final two months of 2006 I want to wish each and every one of you a wonderful and enjoyable holiday season!

Speaking of enjoyable, our spring and fall conferences continue to be very significant. Each conference elevates the bar a little higher than the last. Cathy Link (Conference Committee Chair/IAPPO Vice-President along with her entire committee did an incredible job in making the fall 2006 IAPPO Vendor Fair and Conference great. As President, I appreciate all the hard work involved in putting together our first Chicago area vendor fair.

I am pleased to announce that we are working on a new chapter website in order to standardize registrations, dues renewals, membership files and records, provide historical archives and provide an updated look and feel for our chapter members.

In conclusion, as President I am proud to lead a team of the Board of Directors, Officers and Committee Chairs who strive to help you continue your learning and professional development experience. That being said, I encourage all who are not involved to participate and help us to make IAPPO an even stronger and more dynamic chapter. Our Committee Chairs are always looking for help by the giving of your time and talents. If you know of a purchasing professional that is not a member, please encourage them to attend a chapter event to get better acquainted with IAPPO.

Public Procurement Corruption:

A Brief Overview

By Khi V. Thai, Ph.D., Professor, Director
Public Procurement Research Center
Florida Atlantic University

On May 18, 2006, Mr. Don Buffum, Procurement Director in the State of Mississippi's Purchasing office, wrote to a small group of procurement practitioners and researchers "...I was contacted by a local group. They set up meetings with people from Russia who wanted to improve the way they (new Russia) operate. The local group introduced them to the United States way of life, commerce, government, etc.; [and ...] asked me if I would be willing to meet with them to discuss ways to *reduce* [author's emphasis] corruption in the Russian government procurement. . ."

Corruption exists everywhere in the world—in developed as well as developing nations, rich and poor countries, and in all functions of government including finance, defense, law enforcement, and particularly public procurement. In the United States, it is certainly true that procurement corruption has long been a part of our history. This is particularly evident in U.S. military procurement and dates back to the War for Independence and most currently, the war against Iraq.

Corruption is unethical and illegal. According to a 2004 estimate by the World Bank, in both rich and developing countries, more than \$1 trillion dollars is paid in bribes each year. Thus, the need for a code of ethics in all countries and associations. Public procurement needs to be conducted transparently (and free of corruption). International organizations such as the World Bank, and the United Nations have gone to great lengths in helping developing countries establish a governance structure that aims at making procurement more transparent. Some may be under the false impression that corruption is a common procurement problem only in distant parts of the world, and is dealt with by the UN, and WB. However, hard facts from developed countries prove

otherwise. In the United States, procurement corruption cases were discovered in the Iraq war; and, most recently, on September 6, 2006, former Illinois Governor George Ryan was sentenced to six and a half years in federal prison for racketeering and fraud, which consists of handing out contracts and leases to his friends in exchange for gifts, including island vacations, for himself and his family. In this short article, after defining the term "corruption," the author will provide a brief history of corruption in public procurement, identify causes and consequences of procurement corruption, and then recommend some remedies.

Overview

Definition

Transparency International, a non-profit organization, defines "corruption" as "the abuse of entrusted power for private gain." In its "Standard Bidding Document," the World Bank defines corrupt practice as "the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract execution." Corruption occurs in both public and private sector. In the public sector, public procurement is seen as an area most likely to attract corruption. Public works and construction were listed by the *TI 2002 Bribe Payers' Index* as the leading procurement type corruption, ahead of arms and defense, and oil and gas.

While many actions are generally accepted as corrupt such as bribery and fraud, there are some actions that are legal but may be perceived as corrupt, including special projects that legislators and policy makers bring to their constituencies. A notorious case is the "Bridge to Nowhere" that a U.S. Senator brought to Alaska. In order to make a distinction between legal and illegal actions, it is important to identify basic characteristics of corruption. *First*, an action is made by a person holding entrusted power. *Second*, it must be intentional and in conflict with basic procurement principles such as transparency, best value and fairness. *Third*, the corruptive official must derive some recognizable benefit for him/herself, his family, his friends, his tribe or party, or some other relevant group. *Fourth*, the "private gain" derived must be seen as a direct return from the specific act of "corruption."

The "private gain" can be realized in six forms as shown in Table 1.

Table 1 – Six Forms of Corruption

Bribery: When payment is made for services that should be freely given (SDU II).

Fraud: When private gain is obtained through trickery and includes embezzlement, which is when public property/money is taken for private use (SDU II).

Extortion or Coercive Practice: When money, services, or other gains are demanded with threats, directly or indirectly (The World Bank, 2004; (SDU II))

Favoritism: When benefits are obtained through personal relations between those with power and those seeking favors. It may include nepotism, tribal/political favoritism, undue influence or gender discrimination (SDU II).

Gratification: When making any payment or the giving of any favor for undertaking or failing to undertake any required action in the procurement and disposal process (SDU II).

Collusion: A scheme or arrangement between two or more bidders, with or without the knowledge of the procurement agency, designed to establish bid prices at artificial, noncompetitive levels (The World Bank, 2004).

Sources:

USAID/ARD Strengthening Decentralization in Uganda Phase II (SDU II). (2006). "National Public Procurement Integrity Survey Questionnaire." Kampala, Uganda; The World Bank (2004). "Standard Bidding Document." Washington, DR: Author.

There are two types of corruption in the public procurement process: political corruption and administrative corruption.

Political corruption may occur in the early stages of public procurement (particularly major public works projects), a variety of corrupt behaviors may occur, including political contributions made by industries and constituencies who will benefit from their decisions. Political corruption also takes place during the contracting process when politicians are allowed to be involved in contracting stages, including contract award stage. For example, in Uganda, prior to its Local Government Act of 2006,

tender boards of local governments were appointed by elected officials, and as a result, elected officials had great influence on contract awards. In countries where contract awards are handled by procurement practitioners, politicians still can exercise their political influence (corruption). In quite a few cases, an elected official such as a city council member or county commissioner has asked procurement officers to grant a contract award to another local vendor even though a best bidder was selected by the evaluation committee and recommended by this procurement manager.

Administrative or bureaucratic corruption in public procurement refers to corruptive behaviors of administrators or bureaucrats who are involved in the contracting process, from pre-contract award to post-contract award phases. Examples of administrative corruption are offered later in this article.

History of Corruption

The first recorded cases of corruption date back to 3000 B.C. prompting some authors to consider it the second oldest practice (after prostitution) in the world. Corruption has persisted over time and its form has varied according to historical periods and political, social and cultural environments. However, government contracts have always been a fertile area for corruption. This is particularly true in the history of U.S. defense acquisition.

Although corruption exists in every historical period, it has become of particular concern since the 1990s due to its contagious and far reaching effects. The impact in the media of accusations of corruption leveled at important positions in government, including presidents of countries and prime ministers contributes to corruption appearing as one of the problems that causes most concern to citizens and confirms a weakness in the institutions that can go so far as to destabilize government structures and jeopardize economic growth.¹ (The *coup d'état* in Thailand in late September 2006 is a most recent case of political instability caused a corrupt government).

James Wolfensohn, former president of the World Bank, delivered a landmark “cancer of corruption” speech at the 1996 IMF/World Bank Annual Meetings. Since then, the World Bank has assisted about 100 countries in tackling corruption. Equally important is the Bank’s own “zero tolerance” policy on corruption internally and the aggressive approach

to minimize corruption on Bank-funded projects. The Bank publicly names companies found to have been engaged in corrupt practices in its projects. So far, more than 100 firms have been debarred.

Similarly, the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions entered into force in 1999. This requires signatory countries to criminalize the bribery of foreign public officials, wherever committed, and to put into effect various preventive and enforcement measures. The World Bank has also launched a program aimed at helping developing countries reform their government to reduce corruption.

Causes of Corruption

There are many causes of corruption. Some researchers suggest that corruption may stem from culture, political system, low open and competitive market levels, greed, weak legal controls, inappropriate penalties applied to corruptive behaviors, weak media power in detecting corruption cases, or low salary.

Culture. Corruption may be rooted in a country’s culture, which tolerates corruption. In some cultures, a gift is normally considered as a gesture of appreciation by a service receiver of a service provider. In addition, in many countries where extended family exist, a successful family member who is expected to help his/her less lucky members will be under greater pressure to “make additional income” to support his/her extended family.² Corruptive behaviors are more tolerated in this type of culture as a great portion of populace consider corruption as a common practice that government officials exercise in order to fulfill this cultural obligation.

Political System. Many studies point to some correlation between the level of corruption and level of democracy. The more democratic a country is the lower the level of corruption identified. In countries where political contributions are not a major source of revenues to support political parties, ruling parties normally use corruption, in many forms, particularly government contracts to fund their political parties’ operations.

Low Salary, and Rich and Poor Countries. The low salary of government officials has been considered a major cause of corruption. A government official with a salary that does not afford basic needs such as

food for his/her family, is more willing to take bribes. This observation has led to an assumption: The poorer a country is, the higher level of corruption. Although there is empirical evidence to support this assumption, according to a World Bank Institute study, "countries like Botswana, Chile, Costa Rica, and Slovenia, which have curtailed corruption to levels comparable with those of many wealthy industrialized countries, challenge the popular notion that a country needs to become rich in order to address corruption." As each country has its own culture, political system, market, and legal framework, there is not any best corruption reduction model or approach that can be applied to all countries. Each cause of corruption has to be dealt with differently.

Consequences of Corruption

Corruptive behavior over time leads to higher product and service pricing and negatively impacts the national economy.

Costs of Corruption

In its May 28, 2003, "Communication on a Comprehensive EU Policy against Corruption" the European Commission estimates that the global cost of corruption adds up to approximately 5 percent of the world economy. According to Daniel Kaufmann, the World Bank Institute's Director for Governance, US\$1 trillion is paid to bribes (excluding embezzlement of public funds or theft of public assets) worldwide in both rich and developing countries, in fiscal year 200-2002 when the world economy was just over \$30 trillion (or 3.33 percent of the world economy). There has been no estimated corruption cost specifically in procurement.⁴ Procurement corruption scholar, Tina Søreide, in "Corruption in Public Procurement Causes, Consequences and Cures," (2002, p. 2) illustrates the economic impact of rent seeking and corruption with the following example:

"A \$500 million highway road is to be built. Ten companies take part in the tender. Five companies each pay \$500,000 in various types of grease payments to win the contract, while the winner also pays 10 percent of the contract value, \$50 million. The apparent effect is that \$50,250,000 is wasted (at least if the money is brought out of the country). In addition, the bribe paid by the contractor serves to inflate the highway price or makes the company skimp on quality. The other four bribing companies also have to regain their sunk cost, for instance by

increasing prices on other products offered by the company, thereby contributing to higher domestic inflation. Macroeconomic effects are obvious if this example is indicative of 10 percent of the public acquisitions in a country. This percentage is most likely higher in countries experiencing extensive corruption."

Corruption costs can be estimated in yet another way: lower project price or cost savings in absence of corruption. For example, "Italian economists found that the cost of several major public construction projects fell dramatically after the anti-corruption investigations in the early nineties. The construction cost of the Milan subway fell from \$227 million per kilometre in 1991 to \$97 (or over 200 percent) million in 1995. The cost of a rail link fell from \$54 million per kilometre to \$26 (over 100 percent) million, and a new airport terminal is estimated to cost \$1.3 billion instead of \$3.2 billion (or almost 300 percent)" (Rose-Ackerman, *Corruption and Government: Causes, Consequences and Reform*, 1999, p. 29).

In many cases, bribes are very high (up to 50 percent). Although the winning firm cut its profit level, it has to reduce the quality so much that works become deteriorated immediately after the project completion. In quite a number of cases, bridges and buildings or classrooms collapsed. Corruption costs in these cases will include the higher cost of construction and the cost of demolishing the failed works. In such cases, the cost of corruption will include bribes (50 percent of the contract, plus, cost of demolishing, and higher cost of rebuilt works.

The scenarios above represent the direct costs associated with procurement corruption. Following are examples of additional indirect or external costs associated with corruption. This list is not exhaustive.

- The project is far more expensive than it would have been and the quality is below official standards;
- Gifted youth seek positions in the government bureaucracy to extract as many rents for themselves as possible, instead of applying their talents to greater social benefit in more scientific professions;
- Political instability that leads to negative economic and social consequences;

- Fiscal bias in budget decisions, favoring spending on large construction projects (e.g. big dams) and neglecting spending on health and education projects;
- Promotion of unnecessary or unproductive procurement expenditures, resulting in government revenue decrease and expenditure increases, and budget deficits and government debt increases; and
- Politicians being motivated to create inefficient rules intended only to generate rents for the public officials.

According to the World Bank Institute, in a country where corruption is eliminated, its national incomes will increase by as much as four times over the long term.

Proposed Actions To Eliminate Corruption

Leadership

Leadership is the most important factor in reducing or eliminating corruption in public procurement. First, as stated by David Dise, Deputy Director of Procurement for Fairfax County, Virginia, “commitment to reform and intolerance of corruption comes from the highest levels of government and must be reinforced through all levels, down to the buyer on the phone and the man on the receiving dock, or reform is hopeless.” This statement is particularly true in a country where there is a lack of checks and balances across the three branches of government and the free press or media.

Procurement Laws and Regulations

To eliminate or reduce corruption, a sound procurement legal framework must be in place and constantly amended in order to cope with emerging corruptive behaviors. Indeed, sound procurement laws and regulations that establish a procurement process, and organization structure are very important in preventing corruptive behaviors. Codification of procurement standards gives practitioners and suppliers clear guidelines for conducting business. Procurement [occurs] in a rapidly changing environment politically, socially, and technologically. Procurement laws and regulations need to be constantly reformed in order to “[get] rid of rules [and] laws that no longer make sense in the current business environment.” (David P. Gragan, Director, Spend Management Solutions, CGI-AMS, May 22, 2006, e-mail).

However, a sound procurement legal framework is only one factor that helps prevent corruption; and it alone cannot stop corruptive behaviors. Similar to taxpayers who always try to find loopholes to avoid paying taxes, corruptive officials will find loopholes in procurement laws and regulations to make decisions for their private gain. As observed by John Adler, another veteran procurement officer and an active NIGP member (May 22, 2006 e-mail), “[d]espite sophisticated and comprehensive laws . . . graft and corruption was rampant during the Revolution. Soldiers fought naked with shoddy shoes and defective weapons while a few wise business people accumulated great wealth. In the next few decades we evolved ever more complex procurement laws. . . while somewhat checked, graft and corruption continue. [N]ew [forms of] corruption [were] invented after every wave of laws. Now we have some very sophisticated laws requiring fair and open competition, transparency, prohibiting conflicts of interest and everything else bad or perceived bad. Despite it all, we still have elected officials accepting bribes to steer contracts, campaign contributions to “bring home the bacon,” contractors doubling costs in reimbursement contracts and contracting officers negotiating for jobs while they negotiate contracts.” Moreover, as Adler stated, “with each wave of new laws, we sacrifice some discretion and common sense. When we lose discretion, we lose effectiveness and innovation.”

Professionalizing Procurement Workforce

Don Buffum strongly believes in professionalizing the public procurement workforce. As he suggested in a May 18, 2006 e-mail, purchasing practitioners need training to understand unique skills and methods, and certification to get professional confidence.

Creating a Free, Competitive Market

Michael Bevis, Chief Procurement Officer for the City of Naperville, Illinois, (May 22, 2006 e-mail) believes an “open competitive market” reduces the returns of economic activity and consequently also the funds available for bribery. However, one can argue that more control of the market means less reason to bribe. In a monopolistic economy, if only one enterprise is able to provide the requested product, why should it pay bribes?

Disturbing the Established Corruption Connections

Rotation of public officials responsible for procurement could be an important measure in this respect. However, rotation may also lead to increased corruption if the officials use the opportunity on a lucrative post to steal as much as possible.

Controlling the Supply Side of Corruption

Thus far, the focus of this article has been on the government (or demand) side. Yet, as the adage states, "It takes two to tango." This observation applies to the practice of corruption as well. In a society where companies are not willing to offer bribes, corruption does not exist. Unfortunately, self interest or greed is not uncommon and vendors are willing to be a tango partner. Each company believes that it needs to pay bribes in order to gain favor in government contracts. However, each company probably understands that they would be better off if nobody paid. In a corrupt environment, companies may decide to participate actively, quietly refuse to deal, or report corruption to local authorities and to those in the outside world (Rose- Ackerman, 1999). As observed by Søreide (2002, p. 33), "a company choosing to keep quiet about a tender won by bribing competitors, has not only lost business, but also contributed to a further cementation of the corrupt practice. Reporting corruption, on the contrary, would embarrass the competitor, but more importantly, it could have an important effect on bribery." If companies do not act transparently, laws and regulations will be needed. The Organization for Economic Cooperation and Development (OECD) has initiated two approaches to keeping companies from bribing government officials:

- Creating a "white list" which lists companies certifying that they comply with all anti-bribery laws and that they have internal managing and accounting practices adequate to ensure compliance with these laws; and
- Requiring contractors to "state that no bribe, gift, benefit, or other inducement has been or will be paid directly or indirectly to obtain the contracts; and contracts are terminated if the statements turn out to be, or become false" (OCED, "No Longer Business as Usual: Fighting Bribery and Corruption," 2000, p. 81).

Detecting Corruption

There are two common ways for detecting corruption:

- **Inspection and Sanction.** Corruption has been so dynamic that corruptive payers can always find ways to deviate from perfect procurement regulations, laws and procedures. Thus, moral conduct should be promoted by inspection and sanctioning. However, too many controls may encourage bribery of the controllers; and

- **Reporting.** Procurement systems should establish and publish an accessible way for reporting corruptive cases. People involved in the procurement process may come across corruption. Anonymous "whistle-blowing," despite a risk of dishonest information, may come from those involved in the procurement process and secondary sources that fear sanctions. In any case, the safety of persons revealing corruption scandals has to be considered.

Conclusion

This article provides a brief overview of corruption in public procurement, an important function of government. Certainly in this space, the author cannot cover in depth all issues discussed above and or address in detail risks of corruption during each stage of the procurement process and suggested remedies to those risks. In the United States, effectively operating with a true democratic system, having checks and balances between the three branches of government, a powerful media system, and an anti-corruption culture, procurement corruption can be expected to be at a very low level, especially when compared with many countries.

Is it true that procurement corruption causes are political in nature? If it is true, an implication can be drawn for developing countries:

procurement corruption can be cured even without commitment from leadership, a suggestion made by many researchers, including this author.⁵

Notes

1. Examples of corruption cures without leadership commitment include: South Korea, President Roh Tae Woo was implicated in bribery in connection with the purchase of aircraft; Singapore, several multinational firms and a senior official of the Public Utility Board were involved in a series of payments made to receive confidential information on tenders; Germany, alleged corruption in the city of Frankfurt related to the construction and telecommunications sectors caused social upheaval; France, highranking

politicians were put on trial in the Elf-Aquitaine affair; Spain, the *Roldán case* was one of the corruption trials to receive the greatest exposure in the media.

2. On a consulting trip to an African country two months ago, during a conversation about causes of corruption, a USAID project director pointed his finger to one of his staff and asked: How many members of your family expect you to provide some financial support?" This staff person answered: "Forty nine."

3. A professional procurement official stated that he has never heard of a corruption case involving a professional procurement official in the United States. If this statement is true, one can conclude political corruption has distorted the public perception of public procurement, which has been considered the most prone to corruption.

4. This author is completing his estimate of procurement corruption costs in Uganda, in an on-going study funded by USAID.

5. As the author plans to write a comprehensive paper on procurement corruption, all comments from readers are welcome.

6. The procurement professionals mentioned throughout this paper are NIGP members.

About the Author

Khi V. Thai, Ph.D., is a professor and director of the Public Procurement Research Center, jointly sponsored by Florida Atlantic University and the National Institute of Governmental Purchasing, Inc. He is author and co-editor of a number of books, book chapters and referred articles. The most recent books consist of Advancing Public Procurement: Practices, Innovation and Knowledge Sharing (2007), The Economics of Public Procurement (2007), Handbook of Globalization and Environment (2007), and International Public procurement (2007). In addition, he is editor-in-chief of the Journal of Public Procurement. He has served as a consultant on such project as Canada's procurement review, UNDP's Sierra Leone Procurement Reform, and USAID's Uganda Procurement Integrity Study.

"In times like the present, men should utter nothing for which they would not willingly be responsible through time and eternity." - from Abraham Lincoln's December 1, 1862 Annual Message to Congress

IAPPO 2006 Fall Vendor Fair by Phil Krysek, CPPB, DuPage County Forest Preserve District

Forty-five vendors turned out for the first Northern Illinois Vendor Fair sponsored by IAPPO. An evaluation sheet was distributed to the vendors and the biggest concern was not enough agency attendees walked through. Other comments "Do not hold the golf outing on same day as vendor fair." " I Wanted to see more purchasing managers." "Good location nice to have two tables." " Sign in process and booth space was good." "Great lunch and space was good for reps made good contacts." A brief description of a reverse vendor fair was also distributed and 20 vendors were very interested. Patti Huth spoke to past president Keith Glatz who sponsored a reverse fair in Florida that was very successful. A reverse vendor fair is very likely for next year. A very big thank you to everyone who chaired and co-chaired this event. Another thank you to the IAPPO members who filled in at the registration table.

Procurement Protests and Disputes Seminar

IAPPO and MAPP, through their collaborative education and training program, held a successful one-day NIGP seminar, *Protests and Disputes: What's a Buyer to Do?* at the Downers Grove Village Hall on October 13, 2006. Terri Tarka, Downers Grove Purchasing Assistant, graciously hosted the class.

There were twenty students in the class—one student traveled from Michigan to attend the seminar. Robin "Rob" Rickard, CPPO, OPBC, developed the course work and travels around the country teaching the class for NIGP. Rob encouraged student participation, and many experiences were shared with the group. As Rob explained, the seminar focused on "what motivates a supplier/contractor to protest, what we can do as purchasing professionals to reduce the probability of

a protest, how to deal with suppliers during a protest phase, and how to deal with a protest if one is received.”

IAPPO and MAPP subsidized the registration for their members, so the one-day seminar was a tremendous value. I believe everyone felt it was a worthwhile class. Watch the MAPP and IAPPO newsletters and websites for future educational offerings.

Patti Huth, CPPO, CPPB
IAPPO Education and Professional Development
Chair
630.271.4134 (voice)
phuth@villageoflisle.org

NIGP Seminars and Workshops Sharpen Your Professional Edge

Did you know that the National Institute of Governmental Purchasing (NIGP) offers a complete program of seminars for the public procurement professional? Their outstanding educational programs are one of the best reasons to join NIGP. As an NIGP member, your agency enjoys special member-only discounts offered to registrants, and the savings can quickly repay membership costs.

Recently, NIGP has thoroughly revised and updated its seminars and the written materials. These outstanding educational opportunities are offered at locations across North America, through one of NIGP's chapters (such as IAPPO) or directly through a training contract with your government. It's a great way to improve purchasing techniques and skills, purchasing power, and increase the overall knowledge of purchasing.

As most of you are already aware, certification is the process by which the public purchaser demonstrates a standard of competency for the benefit of public and themselves. NIGP's Seminars prepare candidates to sit for the Universal Public Purchasing Certification Council's (UPPCC) Certified Professional Public Buyer (CPPB) and Certified Public Purchasing Officer (CPPO) certification examinations. The UPPCC also requires that applicants satisfy an educational/coursework requirement to qualify for certification. Out of convenience to our many members pursuing certification, the education department has

developed a quick reference tool intended to assist members in determining educational hours for NIGP courses they have already taken or will be taking. **The Guide** (found at NIGP.org) lists each of NIGP's educational offerings as well as the corresponding Continuing Education Units (CEUs), contact hours, and UPPCC recertification points you have or will earn by attending.

Legislative Committee Review by Larry Widmer, CPPB & Rick Hughes, CPA JD, Co-Chairs

Did you know that the Procurement of Domestic Products Act was amended by changing Sections 5, 10, 15, 25 and 30 as follows:

(30 ILCS 517/S)

Section 5. Definitions. As used in this Act:

“Manufactured in the United States” means, in the case of assembled articles, materials, or supplies, that design, final assembly, processing, packaging, testing, or other process that adds value, quality, or reliability occurs in the United States.

“Procured products” means assembled articles, materials, or supplies purchased by a State agency.

“Purchasing agency” means a State agency.

“State agency means each agency, department authority, board, commission of the executive branch of State government, including each university, whether created by statute or by executive order of the Governor.

“United States” means the United States and any place subject to the jurisdiction of the United States.

(Source: P.A. 93-954, eff. 1-1-05.)

(30 ILCS 517/10)

Section 10. United States products. Each purchasing agency making purchases of procured products (strike: manufactured articles, materials, and supplies) shall promote the purchase of and give preference to manufactured articles, materials, and supplies that have been manufactured in the United States. Procured products (strike: Manufactured articles, materials, and supplies) manufactured in the United States shall be specified and purchased unless the purchasing agency determines that any of the following applies:

(1) The procured products (strike: manufactured articles, materials, and supplies) are not manufactured in the United States in reasonably available quantities.

(2) The price of the procured products (strike: manufactured articles, materials, and supplies) manufactured in the United States exceeds by an unreasonable amount the price of available and comparable procured products (strike: manufactured articles, materials, and supplies) manufactured outside the United States.

(3) The quality of the procured products (strike: manufactured articles, materials, and supplies) manufactured in the United States is substantially less than the quality of the comparably priced, available, and comparable procured products (strike: manufactured articles, materials, and supplies) manufactured outside the United States.

(4) The purchase of the procured products (strike: manufactured articles, materials, and supplies) manufactured outside (strike: in) the United States better serves (strike: is not in) the public interest by helping to protect or save life, property, or the environment.

(5) The purchase of the procured products (strike: manufactured articles, materials, and supplies) is made in conjunction with contracts or offerings of telecommunications, fire suppression, security systems, communications services, (strike: or) Internet services, or information services.

(6) The purchase is of pharmaceutical products, drugs, biologics, vaccines, medical devices used to provide medical and health care or treat disease or used in medical or research diagnostic tests, and medical nutritionals regulated by the Food and Drug Administration under the federal Food, Drug and Cosmetic Act.

In determining the price of procured products (strike: manufactured articles, materials, and supplies) for purposes of this Section, consideration shall be given to the life-cycle cost, including maintenance and repair of those procured products (strike: manufactured articles, materials, and supplies).

(Source: P.A. 93-954, eff. 1-1-05.)

(30 ILCS 517/15)

Section 15. Contracts; prequalification.

- (a) Each contract awarded by a purchasing agency on or after the effective date of this Act through the use of the preference required under Section 10 shall contain the contractor's certification that procured products (strike: manufactured articles, materials, and supplies) provided pursuant to the

contract or a subcontract shall be manufactured in the United States.

- (b) Chief procurement officers, as provided in Section 20-45 of the Illinois Procurement Code, and the Capital Development Board, as provided in Section 30-20 of the Illinois Procurement Code, must promulgate rules for prequalification of suppliers and contractors under this section.

- (c) (Source: P.A. 93-954, eff. 1-1-05.)

(30 ILCS 517/25)

Section 25. Penalties. If a contractor is awarded a contract through the use of a preference under this Act and knowingly supplies procured products (strike: manufactured articles, materials, and supplies) under that contract that are not manufactured in the United States, then (i) the contractor is barred from obtaining any State contract for a period of five (5) years after the violation is discovered by the purchasing agency, (ii) the purchasing agency may void the contract, and (iii) the purchasing agency may recover damages in a civil action in an amount three (3) times the value of the preference.

(Source: P.A. 93-954, eff. 1-1-05)

(30 ILCS 517/30)

Section 30. Capital Development Board; exemption. The Capital Development Board (CDB) is exempt from the requirement of this Act with respect to a specific project if (i) CDB determines that the project is too complex for the five (5) major construction building trades to identify the numerous individual procured products (strike: articles, materials, and supplies) required for the project or (ii) CDB determines that procured products (strike: the articles, materials, and supplies) required for the project are too numerous or complex to be able to efficiently assess the sites where manufactured.

(Source: P/A. 93-954, eff. 1-1-05)

Public Act 094-0540 - Effective Date 1-1-06

Ethics Corner – by Cathy Link, CPPB, County of McHenry

With the holidays fast approaching, vendors traditionally will attempt to present to the Purchasing departments many forms of gifts. While it is up to the agency's rules and regulations with regard to acceptance of gifts, the NIGP Code of

Ethics is an excellent source for guidelines on receiving “gifts”.

The Code states:

“Believes that members of the Institute and its staff should at no time, or under any circumstances accept directly or indirectly, gifts, gratuities, or things of value from suppliers, which might influence or appear to influence purchasing decisions.”

The Guidelines to the NIGP Code of Ethics further explains:

“Never solicit or accept money, loans, credits or prejudicial discounts, gifts, entertainment, favors or services from you present or potential suppliers which might influence or appear to influence purchasing decisions.

Never solicit gratuities in any form for yourself or your employer.

Items of nominal value offered by suppliers for public relations purposes are acceptable when the value of such items has been established by your employer and would not be perceived by the offeror receiver or others as posing an ethical breach.

Gifts offered exceeding nominal value should be returned with an explanation or if perishable, either returned or donated to a charity in the name of the supplier.

In the case of any gift, care should be taken to evaluate the intent and perception of acceptance to ensure that it is legal, that it will not influence your buying decisions, and that it will not be perceived by your peers and others as unethical.”

The holidays are a time of appreciation and giving. Make sure you let your suppliers know that you appreciate them as well for helping to make your job easier. But, when it comes to the actual receiving of gifts, follow your entities requirements and more importantly, let your conscience be your guide.

Happy Holidays to you and yours.

Mark Your Calendars!

The IAPPO Spring 2007 Conference will be held on May 10 & 11, 2007 at the Chateau Hotel and Conference Center, 1601 Jumer Drive, Bloomington, Illinois. The guest room rates will be \$69.00 a night and are subject to State and City tax of 12 percent. Topics lined up so far will be Snow and Ice Control Methods, Electrical Deregulation, and “Green Purchasing”. This even kicks off IAPPO’s 30th Anniversary Celebration Year. There will be many opportunities for educational training and networking as well as some “Anniversary Surprises.” Please plan on attending.

IAPPO’s Fall 2007 Conference will be held on October 10, 11 and 12, 2007, at the Holiday Inn Itasca, 860 Irving Park Road, Itasca, Illinois. The guest room rates will be \$79 a night and are subject to taxes as well. IAPPO will have its first “Reverse Vendor Fair” at this time and a wonderful 30th Anniversary Celebration. We are also securing a special speaker for this conference.

So, mark you calendars, prepare your budgets, and we hope to see you and have you help us celebrate this milestone anniversary.

Be courteous to all, but intimate with few, and let those few be well tried before you give them your confidence. True friendship is a plant of slow growth, and must undergo and withstand the shocks of adversity before it is entitled to the appellation. – George Washington

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