



Executive Colloquium

Corruption and PPPs Challenges and Solutions

Governments around the world are increasingly turning to Public Private Partnerships (PPPs) to deliver essential goods and services by leveraging private sector resources and expertise. To be successful, PPPs need to strike a balance between many public and private sector objectives. These include reliable and cost-effective service; stable financial returns; fair and predictable markets; and a sustainable allocation of risks throughout the partnership arrangement. At any step in the life of the project, corruption can undermine the balance of the PPP arrangement.

“PPPs are not a panacea.”

In certain countries, the privatization process including the move to PPPs was intended to reduce corruption “by removing certain assets from state control and converting discretionary official actions in to private, market-drive choices.”¹ Yet despite best intentions, many points of state controlled discretion remain in PPPs, while others are shifted to the private sector with equal potential for abuse.

PPPs are not a panacea. Governments need new skills to implement them properly. Without these skills, policy-makers risk selecting the wrong projects to be PPPs, they may not be able to ensure correct design and/or proper regulation and may end up bearing too many costs or risks, and fall short on achieving the desired impact. While PPPs can offer the potential for greater transparency, they can also be a source of corruption and rent-seeking both during the procurement phase and implementation, if there is insufficient transparency and governance is weak.²

CASE STUDY: BIDDERS TREATED DIFFERENTLY.

A passenger rail franchise in the UK came up for re-bid in 2012. After a tendering process, the award committee announced that FirstGroup had won the bid, and the 15-year incumbent, Virgin Trains, lost.

Virgin Trains challenged the award, and the decision was then reversed due to “irregularities in the franchise letting process.” The media also alleged anti-Virgin bias in the evaluation committee.

An official investigation reported finding no specific evidence of anti-Virgin bias, but reported errors in the evaluation, lack of transparency in the evaluation criteria, and inconsistent treatment between short-listed bidders.³

¹ Cobarzan, Bianca, and Roger Hamlin, “Corruption and Ethical Issues regarding Public-Private Partnerships.”

² World Bank Institute PPP Guidance <http://bit.ly/ZNn3uz>

³ Thomas, Natalie. “Department for Transport knew it risked legal challenge.” Oct 29, 2012, *The Telegraph*. <http://bit.ly/RpBgOd>



Approaches to Unsolicited Bids

The United Nations Commission on International Trade Law (UNCITRAL)'s Legislative Guide recommends considering whether the proposal is in the public interest. If so, after a full evaluation of whether to proceed with the project, a selection process may or may not be necessary depending on exclusive rights of the proponent.

Chile and South Korea require a fully competitive bid and give bonus points to the unsolicited bidder. South Africa allows the unsolicited bidder to take part in the call for "best and final bids."

CASE STUDY: EXCESS & ILLEGAL TOLLBOOTHS

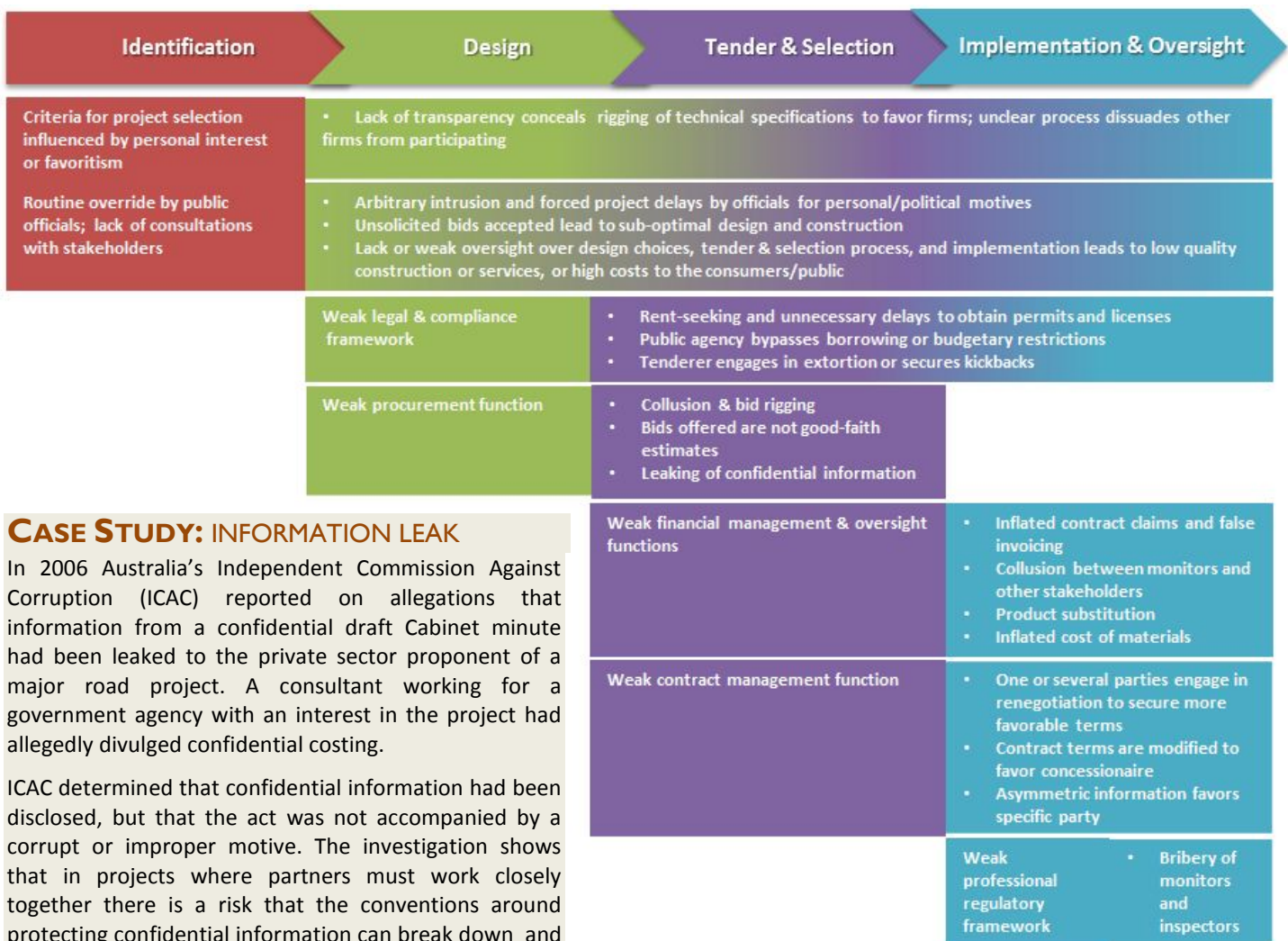
A National Audit Office in Asia found that in 2005 private operators had set up 158 extra, illegal tollbooths in 16 provinces; in many cases tolls were being collected past the contract completion date. Illegal toll revenue totaled USD 2.4 billion by 2005. Operators had strategically extended the charging period and increased the number of tollbooths in order to compensate for "unforeseeable cost increases."

Possible preventive actions:

- Incentivize long-term behavior by adopting a "reputation policy" that credits trustworthy contractors.
- Encourage users to contribute oversight through a system of public hearings.

Source: Mu Rui et al., "Public-Private Partnerships for Expressways in China: An Agency Theory Approach"

Vulnerabilities and Related Corruption Schemes by PPP Project Phase



CASE STUDY: INFORMATION LEAK

In 2006 Australia's Independent Commission Against Corruption (ICAC) reported on allegations that information from a confidential draft Cabinet minute had been leaked to the private sector proponent of a major road project. A consultant working for a government agency with an interest in the project had allegedly divulged confidential costing.

ICAC determined that confidential information had been disclosed, but that the act was not accompanied by a corrupt or improper motive. The investigation shows that in projects where partners must work closely together there is a risk that the conventions around protecting confidential information can break down and that officials can lose sight of the need to protect the public interest.

Source: ICAC "Know your risks: Joint Ventures." <http://www.icac.nsw.gov.au>