

Focus on International Public Procurement Corruption

Written by Administrator

Tuesday, 13 October 2009 00:00

While [many](#) law enforcement agencies in the United States are [focused](#) on allegations of corruption in connection with contracts awarded for work in Southwest Asia, others are looking at public procurement corruption on an international scale. For instance, Europe's biggest defense contractor,

[BAE Systems](#)

, is currently in a

[showdown](#)

with the UK's Serious Fraud Office (SFO) over allegations of "bribery and corruption in arms deals in South Africa, Romania, and the Czech Republic dating back to the 1990's." According to one news source, "in December 2006, the SFO dropped an investigation of allegations of bribery of Saudi Arabian officials in an arms deal involving BAE after then-Prime Minister Tony Blair said the probe threatened national security. The investigation continued, however, into bribery allegations related to BAE sales to the other four countries."

In 2008 German industrial conglomerate Siemens agreed to pay just over U.S. \$1.3 billion to [settle](#) corruption probes related to violations of the Foreign Corrupt Practices Act (FCPA).

Like Siemens, BAE Systems faces [allegations](#) that it violated the FCPA by offering bribes to foreign officials in return for awards of contracts. And like Siemens, BAE Systems faces suspension or debarment in the United States should it be convicted. However, unlike Siemens, BAE Systems has tried to brazen it out by insisting that its executives know of no wrongdoing. According to this [article](#), "the SFO is seeking an admission of guilt and £500 million to £1 billion (U.S. \$1.6 billion to \$3.2 billion) in fines, which would be the largest such fines ever levied against a British firm." BAE Systems' U.S. subsidiary, from which it reportedly derives slightly more than half of its £18.5 billion pounds annual revenue, is not implicated in the scandals. However, media reports indicate that the U.S. Department of Justice "continues to investigation allegations that BAE used a U.S. bank to funnel bribes to Saudi Arabian officials." Given the current U.S. government [stance](#) on contractor integrity and ethical conduct, a sustained finding in this area could prove

problematic for the company.

Meanwhile, in South Africa, at least one [report](#) indicates that another procurement scandal may be surfacing with respect to the acquisition of EADS' A400M cargo aircraft. A Member of Parliament (MP), David Maynier, has called for a probe of South Africa's Department of Defense by the Standing Committee on Public Accounts (

[SCOPA](#)

) because of "its tenth successive qualified audit opinion" and for allegations by the

[Auditor-General](#)

of "irregular expenditures," and "fruitless and wasteful expenditures" in connection with acquisition of eight Airbus A400M aircraft by the DOD's procurement agency,

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. Allegations include:

- Possible irregular expenditure of R2.9 billion (U.S. \$393.5 million) may have occurred in the acquisition of the Airbus A400M aircraft "as a result of the tender process."
- Over R15.24 million (U.S. \$2.1 million) in irregular expenditure on the Airbus A400m aircraft programme is being investigated "with a view to disciplinary action or criminal proceedings."

The South African defense agency is subject to the Public Finance Management Act ([PFMA](#)), which is a statute that imposes transparency and accountability on governmental entities. According to this

[article](#)

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The PFMA was one of the first pieces of legislation to demand monthly actual expenditure reports from departments to treasuries, and audited financial statements to the legislatures within seven months of the end of the fiscal year. It sought to bring state-owned enterprises under the transparent scrutiny and accountability not yet exercised by the legislature.

South Africa's PFMA defines certain terms. For instance, "fruitless and wasteful expenditure" means an expenditure which was made in vain and would have been avoided had reasonable care been exercised. An "irregular expenditure" is an expenditure (other than an authorized expenditure) incurred in contravention of, or not in accordance with, a requirement of any applicable legislation. Among other things, the PFMA also mandates that accounting officers of entities subject to the Act must have and maintain "effective, efficient, and transparent systems of financial and risk management and internal control ... an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive, and cost-effective" The PFMA also mandates that accounting officers must "take effective and appropriate disciplinary steps against any official ... who ... makes or permits an unauthorized expenditure, irregular expenditure, or fruitless and wasteful expenditure." Consequently, the allegations reported above, although couched in language unfamiliar to many U.S. readers, may lead to serious repercussions.

To sum up, despite the efforts of various domestic and international law enforcement agencies, corruption in the public procurement process remains widespread. Many of those entities accused of corruption in the international stage also operate in the United States, where their actions could impact their ability to compete for future defense contracts. Even for allegedly corrupt entities operating in far-away South Africa, the rule of law still applies in the public procurement arena.

