

BS 10501:2014



BSI Standards Publication

Guide to implementing procurement fraud controls

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Published by BSI Standards Limited 2014

ISBN 978 0 580 82874 4

ICS 03.100.10; 13.310

The following BSI references relate to the work on this document:

Committee reference G/2

Draft for comment 13/30282472 DC

Publication history

First published March 2014

Amendments issued since publication

Date	Text affected
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BSI acknowledges the contribution of CIPS in the initiation and development of this standard.



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Foreword

Publishing information

This British Standard is published by BSI Standards Limited, under licence from The British Standards Institution, and came into effect on 31 March 2014. It was prepared by Technical Committee G/2, *Anti procurement fraud*. A list of organizations represented on this committee can be obtained on request to its secretary.

Use of this document

As a guide, this British Standard takes the form of guidance and recommendations. It should not be quoted as if it were a specification or a code of practice and claims of compliance cannot be made to it.

Presentational conventions

The guidance in this standard is presented in roman (i.e. upright) type. Any recommendations are expressed in sentences in which the principal auxiliary verb is “should”.

Commentary, explanation and general informative material is presented in smaller italic type, and does not constitute a normative element.

Contractual and legal considerations

This publication does not purport to include all the necessary provisions of a contract. Users are responsible for its correct application.

Compliance with a British Standard cannot confer immunity from legal obligations.

Introduction

Procurement is defined by this British Standard as the “process of acquiring goods, works and/or services, covering both the acquisition from third parties and in-house providers, and spanning the whole life cycle from identification of needs through to the end of a services contract or the end of the useful life of an asset”.

This definition is important as it is where the process of identifying the risk of procurement fraud begins. The possibility of procurement fraud needs to be considered from the very beginning of the procurement activity. This includes the method by which the goods, works or services are going to be procured, such as written quotations, single/sole sourced or through a competitive tender.

It is best practice to design out the possibility of procurement fraud at the earliest opportunity and this British Standard provides guidance on mitigating a range of fraud risks.

1 Scope

1.1 This British Standard gives guidance on mitigating and actively managing the following procurement fraud risks:

- a) procurement fraud committed against the organization by its personnel or others acting on its behalf or for its benefit;
- b) procurement fraud committed against the organization by another organization or individuals with the assistance of its personnel or others acting on its behalf or for its benefit;
- c) procurement fraud committed against the organization by another organization or their personnel;
- d) procurement fraud committed against the organization by other organizations or their personnel acting on their behalf, e.g. fraud conspiracy, bid rigging, anti-competitive activity.

1.2 This British Standard is applicable only to procurement fraud, specifically fraud offences committed in the procurement life cycle. It is not applicable to other criminal offences, such as anti-trust/competition and money laundering offences, although an organization may choose to extend the scope of its procurement fraud controls to include these other offences.

NOTE Many countries' laws do not define procurement fraud or define fraud in different ways. This standard does not provide its own definition of fraud, but identifies the following specific fraud types where it is committed: false representation, failing to disclose information when there is a legal duty and/or contractual obligation to do so and abuse of position.

1.3 This British Standard is applicable to all types and sizes of organizations (including small and medium enterprises) in all sectors (including the public and private sectors, and the charity and voluntary sectors).

2 Terms and definitions

For the purposes of this British Standard, the following terms and definitions apply.

2.1 compliance manager

person responsible for ensuring that the organization's systems of control are operating adequately, including the effective management of procurement fraud risk

NOTE The role of the compliance manager might be full-time or might be performed by a member of staff in addition to their regular role.

2.2 conflict of interest

situation where outside business, family or personal connections could interfere with the judgement of personnel in carrying out their duties for the organization

[SOURCE: BS 10500:2011, modified]

2.3 framework agreement

agreement with suppliers that sets out the terms and conditions governing contracts that can be awarded during the life of the agreement and that might relate to price, quality and quantity under which individual contracts can be made

2.4 information security

preservation of confidentiality, integrity and availability of information, including the protection of information and information systems against unauthorized access or modification of information, whether in storage, processing or transit, and against denial of service to authorized users

NOTE Information security includes those measures necessary to detect, document, and counter such threats. Information security is composed of computer security and communications security.

2.5 internal audit

systematic, independent and documented process for obtaining evidence and evaluating it objectively in order to determine the extent to which procurement fraud requirements are fulfilled

2.6 organization

corporation, company, firm, partnership, enterprise, authority or institution, or part or combination thereof, whether incorporated or not, public, private or voluntary

[SOURCE: BS 10500:2011, modified]

2.7 personnel

organization's directors, officers, employees, agents and temporary and outsourced staff or workers, paid and unpaid

[SOURCE: BS 10500:2011, modified]

2.8 procure-to-pay

process of acquiring and managing goods, works and/or services needed for manufacturing a product or providing a service, involving the transactional flow of data that are sent to a supplier and the data concerning the fulfilment of the order and payment for the goods, works and/or services

2.9 procurement

process of acquiring goods, works and/or services, covering both the acquisition from third parties and in-house providers and spanning the whole life cycle from identification of needs through to the end of a services contract or the end of the useful life of an asset

2.10 procurement fraud

fraudulent act committed against an organization's procurement process that might involve fraud by false representation, failure to disclose information when there is a legal duty and/or contractual obligation to do so, abuse of position, or associated offences

NOTE A list of the various forms of procurement fraud is given in Annex A.

2.11 procurement fraud control

measure intended to help the organization:

- a) identify the risk of procurement fraud;
- b) mitigate procurement fraud;
- c) detect, report and respond to an allegation or suspicion of procurement fraud; and
- d) monitor, review and implement control measures

NOTE Such a measure might be independent or be part of the overall fraud management controls.

2.12 procurement life cycle

phases of the procurement process, from identification of needs through to the end of a services contract or the end of the useful life of an asset

NOTE The procurement process involves options appraisal and the critical "make or buy" decision.

2.13 procurement fraud policy

document that:

- a) prohibits procurement fraud; and
- b) requires reasonable and proportionate measures to be taken to:
 - 1) mitigate procurement fraud;
 - 2) detect, investigate, report and respond to (e.g. initiate procurement fraud response plan) any procurement fraud that occurs

2.14 purchasing

process of buying materials and services of the required quality, in the correct quantity, delivered to the right place at the right time, from a legitimate source, at an appropriate price

2.15 supplier

organization that provides materials, components, goods, works or services for another organization

2.16 supply chain

movement of materials (or services) as they flow from their source or supplier to the end customer

NOTE 1 A supply chain is made up of the people, activities, information and resources involved in moving a product (or service) from suppliers to customers. Understanding who and what is involved in the supply chain process (which might include a number of tiers) is an essential part of the procurement process.

NOTE 2 An international supply chain organization may be involved in various processes, including manufacturing, processing, loading/unloading, transportation (across international borders), customer service, demand planning, supply planning and supply chain management.

2.17 top management

person or group of people who directs and controls an organization at the highest level

[SOURCE: BS EN ISO 9000:2005]

3 Planning

3.1 General

The organization should plan for the adoption of a procurement fraud policy and the implementation of procurement fraud controls by ensuring that the following steps are taken:

- a) allocating responsibility for planning to personnel of appropriate seniority;
- b) appointing appropriately qualified personnel to conduct a risk assessment to identify what activities or other aspects of the organization's business have procurement fraud risks;
- c) assessing in what manner and to what extent the procurement fraud controls should be implemented by the organization, taking into account the factors in 4.1;
- d) writing the procurement fraud policy;
- e) designing or modifying the necessary policies, procedures and controls, and ensuring that they are reviewed at agreed intervals;
- f) determining the necessary resources (including funding, personnel, equipment and materials) needed to implement the procurement fraud controls;
- g) preparing an implementation timetable with clearly identified responsibilities.

3.2 Assessment of risk

3.2.1 The organization should implement procedures to enable it to assess:

- a) the risk of procurement fraud in relation to its existing and proposed procurement and supply chain activities;
- b) whether its policies, procedures and controls are adequate to mitigate those risks in line with the organization's risk appetite.

3.2.2 The timing and frequency of risk assessments should be defined by the organization.

3.2.3 As part of its risk assessment process, the organization should conduct due diligence on business suppliers in accordance with 4.12.

3.2.4 In considering the controls necessary to mitigate risk, there should be adequate review of risk areas within the purchasing process, including:

- a) business requirement, i.e. identification of needs;
- b) product and/or services specification;
- c) assessment of pre-qualification and tender submissions and selection;
- d) tender selection and contract award;

- e) review of the make or buy decision;
- f) ongoing supplier relationship management;
- g) asset protection.

3.2.5 When carrying out fraud checks within the procure-to-pay process, the following should be considered.

- a) Does the requisition match the purchase order?
- b) Is it the same person authorizing both activities? Would segregation of duties be appropriate?
- c) Does the purchase order match the requirement in the contract?
- d) Does the purchase order match the delivery note?
- e) Is there a delivery note to evidence the delivery of the goods, works or services?
- f) Are all signatures on the delivery note clearly visible and identifiable to a particular person?
- g) Is there signed evidence to demonstrate the services have been completed?

3.2.6 Performance bonuses, performance targets and other incentivizing elements of remuneration should be reviewed to ensure that there are reasonable safeguards to prevent these from encouraging bribery.

3.2.7 Procurement fraud risks should be documented in the risk register and reported to the audit committee. An overview of controls in place and their effectiveness, including near misses for fraudulent activity, should be reported to the audit committee on a predetermined basis.

4 Procurement fraud controls

4.1 Scope of the controls

The controls to be implemented by the organization should be reasonable and proportionate, taking into consideration the nature and extent of the procurement fraud risks that the organization faces and the:

- a) size of the organization;
- b) countries and sectors in which the organization operates;
- c) nature, scale and complexity of the organization's commercial activities and supply chain;
- d) organization's existing suppliers.

4.2 Controls

4.2.1 Procurement controls

The organization should implement procurement and other controls to ensure that it can purchase materials and services of the required quality, in the correct quantity, delivered to the right place at the right time, from a legitimate source, at an appropriate price.

4.2.2 Procurement fraud controls

The organization should implement procurement fraud controls that mitigate the risk of the organization, its personnel or others acting on its behalf committing, or being the victim of, procurement fraud.