

Strengthening the Integrity of Public Procurement through Greater Transparency

Presentation by Dr. Busso Peus

Ethical principles and economic benefit are not mutually exclusive. On the contrary, for serious major companies willing to operate successfully in the international markets over the long term, they are mutually dependent.

Before I go into details let me make a preliminary remark. I have been invited to this conference in my capacity as the representative of one of the largest international construction companies. Although this company has been active over time in more than hundred countries this gives me neither the authority to speak for the construction industry as a whole nor for the industry of any particular country. So please accept my contribution for what it is, the contribution of one man and member of the construction industry.

I have been asked to speak about the subject of this conference from the perspective of a bidder. This perspective has to be differentiated: in today's international markets no major construction company is solely a bidder, i. e. a contractor bidding for works, but he is necessarily at the same time an owner who subcontracts most of the works - occasionally over 80% - to subcontractors and suppliers. His perspective is therefore two-fold: that of a bidder and that of an owner.

It is obvious that in his role as owner he is interested in a clean bidding process in respect of all subcontracts and supply agreements. Any type of intransparent procedures are likely to result in his not getting most value for his money.

But also in his capacity as bidder a serious international constructor company that takes a long term view must be interested in a clean bidding process. Because it is only then that its particular strengths, its competitive advantages fully come to bear: technical capability, reliability, discipline and performance, in other words those qualities that are occasionally described as "German virtues". The serious contractor has a comparative edge on solid ground, not in muddy waters.

Our interests coincide with those of the public owner. Transparency in the tendering process is economically beneficial *not* only for him and his country but also for the serious contractor: the public owner only pays for results he actually receives; the contractor gets a fair reward for his real work. No extra money is wasted. Ethics and economic benefits are intimately linked.

In recognition of the necessity to achieve the highest possible level of ethical standards the company that I represent has introduced a number of measures:

1. We have introduced a formal code of ethics. Major US companies had taken the lead we have adopted and extended their codes.
2. Senior executives commit themselves to the code of ethics in their employment contracts. Unethical acts or violations of anti-trust laws are expressly prohibited. This holds not only in respect of public contracts but also for all and any business dealings in the private sector.
3. Compliance with the code of ethics and the employment contracts are monitored by a special department which reports directly to the Board of Directors. This special bidding and contract audit department reviews the activities of all domestic operational units at least twice a year.

In addition this department in co-operation with the legal department holds a number of seminars -- usually 15 per year - for the various business units, where the applicable laws and the consequences of violations are explained as well as specific administrative measures like contract forms and check lists are proposed that enhance transparency and help to facilitate compliance with all applicable laws and the code of ethics.

4. We have set up a special ethics hotline. Any employee can call up and speak to a trained lawyer. Absolute confidentiality and discretion are guaranteed. The hotline ensures that any member of the company has somebody to talk to in cases of actual or perceived conflicts.
5. Finally, our commitment goes beyond these internal measures. We are promoting the concept of a code of ethics both within the industry associations and in public. Our aim is to encourage all participants in the construction sector to introduce such a code. The deal is to help to create a homogeneous environment of transparent and fair competition which also serves the best interests of the community at large.

This is a brief summary of the main elements by which a major international contractor is trying to achieve the highest possible compliance with ethical standards. The systems are certainly not yet perfect. We will continue to work at developing them further. I am sure this conference will provide fruitful ideas.