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**White-Collar Crime
and the Public Sector**
An Interdisciplinary
Approach to Public
Procurement Fraud

Christy D. Smith

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PREFACE

Public procurement fraud is an important yet under-studied topic in the fields of public administration and criminal justice. While procurement is regarded as a critical and often strategic government activity, the majority of public administration programs throughout the country and beyond offer little to no instruction on conducting successful and ethical procurements. The financial and social costs of fraudulent procurement practices tarnish the reputations of public servants and contribute to a perception of government as corrupt and self-serving; this is unfair and likely inaccurate, as the majority of public procurement professionals are true stewards of both public funds and public trust. Without sufficient scrutiny of the prevalence and cases of public procurement fraud, anecdotal evidence is accepted as true and representative of practice. Only through increased attention to and study of public procurement and public procurement fraud can faith in our public servants and institutions be restored.

West Haven, USA

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Introduction

Why the Study of Public Procurement Matters

Abstract The United States federal government is the biggest procurer of goods and services in the world. While the vast majority of purchasing activities are completed by dedicated civil servants and in compliance with all applicable laws and procedures, the process is vulnerable to those seeking personal gain at public expense. This book marries together criminal justice research with select organizational behavior frameworks to illustrate how they can be combined to provide insights into who the public procurement fraud criminal is, his motives and methods of exploitation, and the measures that can be taken to detect and prevent this type of abuse.

Keywords Public procurement · Public procurement fraud · White-collar crime

The book begins with an introduction to public procurement: what it is, how it is regulated, and how there has been procurement fraud as long as the government has engaged in procurement activities. After this brief overview, the procurement process is explained and the vulnerabilities inherent in each stage are identified. Understanding the complexity of

the process and the various opportunities for transgression help demonstrate why procurement fraud is difficult to detect and prevent as well as why more research in this area is needed.

Once these fundamentals of public procurement and the procurement process are outlined, criminal justice and sociology literatures related to street and white-collar crime are examined. This chapter explains the offender-based and offense-based distinctions between the street and white-collar criminal and establishes a frame for later chapters. By aligning the public procurement criminal with other types of criminals, this book provides a new way of looking at this important topic that has gone largely unexamined. Building upon this review of the relevant criminal justice and sociology research, public procurement fraud is now described in the context of white-collar crime. This framing of public procurement fraud within the larger white-collar crime perspective is a unique approach and extends both public procurement and white-collar crime scholarship, as the majority of white-collar crime research is limited to corporate crime in the private sector or political corruption in the public sector.

Because white-collar crime is an occupational crime taking place within an organization, the following chapter applies a selection of relevant organizational behavior frameworks to examine the misbehavior. These approaches use factors such as extrinsic and intrinsic motivation to suggest why some procurement professionals commit fraud while many do not. This combination of white-collar crime scholarship with organizational behavior perspectives provides a new and useful lens for studying public procurement fraud; it also demonstrates the interdisciplinary nature of the issue, with implications for criminal justice, public administration, sociology, and organizational behavior research. These preceding discussions are used to frame the next chapter, an original study of public procurement fraud, which draws comparisons between public procurement criminals and the findings of private sector studies of street and white-collar criminals. Additionally, inferences are made relevant to the influence of the organizational behavior frameworks from the preceding chapter, including public service motivation. Public service motivation, while difficult to measure, is believed to be a factor for public service personnel and, it is suggested, particularly for positions of trust with fiduciary duty.

Following the original research, a chapter on fraud detection and prevention is provided. Using research from the Association of Certified Fraud Examiners, the procurement fraud study from the preceding

chapter, and other studies, strategies for enhancing existing detection and prevention mechanisms or implementing new ones are explored. This chapter, in contrast to the preceding chapters developed from academic scholarship, takes a practitioner view to make evidence-based recommendations for reducing opportunities for fraud, waste, and abuse during the procurement process. The final chapter provides directions for future research as well as a call for interdisciplinary approaches to this global issue. Public procurement fraud is not just a crime, it is an abuse of trust that carries economic, organizational, and social costs. Because of this range of impacts, examining the issue using multiple perspectives provides more and better opportunities for finding comprehensive solutions.



Public Procurement Overview

What is Public Procurement?

Abstract Fundamentally, public procurement is the use of public funds by public entities to acquire goods and/or services to achieve public goals. The guiding principle in procurement, whether public or private, is to obtain the best value for money (O'Regan, D., 2008). All levels of government engage in some type of procurement activities, from municipal purchases of office supplies to federal acquisitions of tanks and aircraft. In addition to the purchase of goods, governments are large procurers of services, ranging from substance abuse and mental health programs at the state level to security forces deployed abroad at the federal level. Procurement is a critical government activity that is only growing with the increase in the contracting of government services.

Keywords Public procurement · Procurement process · Regulation · Vulnerabilities · Fraud

Because the public sector is the largest procurer of goods and services, it is imperative that protections are in place to ensure good stewardship of not only public funds but public trust as well. When public procurement fails, the economic costs can be in the millions and the social costs can result in loss of life. Unfortunately, there are many examples of public projects that never came to fruition: the State of Florida spent millions of dollars on a

technology project, Project Aspire, intended to update an antiquated and decentralized accounting system; ultimately, the project was suspended after three years of the six-year contract and the State had paid \$89 million of the budgeted \$100 million (CoEG, 2008). The deliverables were not achieved, meaning the taxpayers received little to no benefit for the almost \$90 million they spent.

While this example of the importance of deliberative and conscientious procurement demonstrates large financial losses, the consequences of poor procurements can be much more dire. For example, soldiers fighting in the American Revolution fought with faulty equipment, suffered arms shortages, and even perished due to malnutrition because of Congress' inability to effectively and consistently procure basic wartime necessities (Keeney, 2007). A more recent example involves the inadequacies of body armor procured by the federal and state governments. Body armor, used by the military as well as police departments around the country, provides protection from gunfire. Second Chance, a body armor manufacturer, sold bulletproof vests to the United States government and various police departments that they knew may not be effective in stopping bullets; this resulted in numerous lawsuits and, more importantly, death and injury to some of the wearers (Solomon, 2005).

While the Project Aspire contract was a failure, it is distinct from the body armor case in that there is not believed to be any evidence of fraud or corruption, that the contract was executed in good faith. The truly egregious nature of the body armor case—knowingly providing ineffective goods—demonstrates why the study of public procurement fraud is critical: corrupt procurement practices can not only result in loss of money but loss of life as well. This case also demonstrates the complexity of the issue with regard to who the perpetrator is or how many individuals are involved in the scheme. Procurement is a lengthy and complicated process; it is also a critical government function that demands high standards of conduct from the professionals charged with acquiring goods and services on behalf of the federal, state, and local governments. Because of the financial trust placed in these individuals, it is vital that they be guided by a moral compass that reminds them that it is “not your money” (Hunsaker, 2009). Most public procurement officials conduct themselves according to this fundamental principle and are good stewards of the public trust as well as the public purse, but not every officer charged with these responsibilities will adhere to the ethical and legal requirements of their position.

ENSURING A FAIR AND LEGAL PROCESS

Public procurement is among the most legislated and regulated of all government activities (Prier & McCue, 2009). Because the government is one of the largest procurers of goods and services in the world, it makes sense that every effort would and should be made to protect such a sizable expenditure of taxpayer dollars and acquire high-quality products. To this end, public sector procurement is governed by a multitude of laws intended to protect the integrity of the process, and each level of government has its own rules and regulations. According to Transparency International, an organization that researches corruption around the globe, costs of corruption and fraud are not just economic but create political and social obstacles as well (TI, n.d.). Institutional reforms have been attempted to address corruption; however, the lack of public procurement fraud research makes it difficult to determine how effective these reforms have been or just how big a problem procurement fraud still is.

Local Government Regulation

It is only over many decades that procurement has become a professional and uniform government function. Beginning with local governments, procurement became a legitimate government activity. Colonial governments were the first government to purchase services, such as printing, with states and the federal government eventually following suit (Callender & Matthews, 2000; Thai & Grimm, 2000). City and county governments throughout the United States have ordinances and/or manuals that outline what is required or prohibited in their procurement practices.

State Regulation

While local government may have been first to engage in procurement activities, states were first to centralize purchasing into units and establish positions explicitly charged with carrying out purchasing activities (Thai & Grimm, 2000). Each state has statutes that describe required and prohibited procurement activities, and they can be more lenient or more restrictive than the manuals and ordinances of local governments. For example, a city may not have any requirements in their manuals

regarding preference for recycled or recyclable materials, but the state may have very clear statements of preference for recycled or recyclable materials. Conversely, a local government may require recycled or recyclable materials regardless of cost while the state may prefer recycled or recyclable materials when it is cost effective to do so. Unlike many state laws that preempt those of local governments, procurement regulations are determined by the individual government entity for the sole purpose of governing their own procurement activities.

Federal Regulation

Even though the federal government adopted formal procurement processes after the local and state governments, procurement has been a federal government activity as far back as the Revolutionary War (Thai, 2001; Yukins, 2017). In the late 1700s, the procurement of goods and services was unorganized, decentralized, and lacked any kind of oversight. Commissaries entrusted with purchasing goods and services on behalf of the United States government lacked incentives or repercussions for the quality of their procurements; because they earned a percentage of the procurements (Callender & Matthews, 2000; Thai & Grimm, 2000), they would be motivated to inflate prices rather than bargain to achieve the best price for the government. The result was expensive and largely inefficient acquisitions. To reduce costs and opportunities for fraud, Congress passed a number of acts, thereby establishing purchasing as a legitimate government function (Callender & Matthews, 2000; Prier & McCue, 2009).

Currently, all executive agencies of the federal government are bound by the Federal Acquisition Regulation (FAR), which establishes rules and guidelines for agency procurement of goods and services. To address public corruption in the United States, various actions have been taken over the years at multiple levels of government: President Bush enacted the National Procurement Fraud Task Force in 2006, President Obama implemented the Interagency Financial Fraud Enforcement Task Force in 2009, and states such as Connecticut have partnered with federal agencies to identify and investigate corrupt, criminal activity by public officials and the misuse of public funds. Despite these and other efforts to address corruption, procurement fraud in the public sector is still a common problem (ACFE, 2016) with little research to indicate just how big a problem procurement fraud is.

THE PROCESS AND ITS VULNERABILITIES

Describing the Process

The procurement process has been reformed and refined throughout the years, often with the goals of increasing access, ensuring competition, and preventing waste and corruption. Each stage in the procurement cycle has a specific purpose that will not only lead to a successful procurement but a legal and ethical one as well.

Many different models exist, with small variances in the stages and phases of the procurement process. Transparency International, an organization that fights corruption around the world in both the public and private sectors, breaks the process into several phases with specific activities: a **planning phase**, where a needs assessment is completed and the product specifications, evaluation criteria, and contract requirements are developed; a **bidding phase**, where requests for proposals are published, clarifications are provided to bidders, and pre-bid conferences may be held; a **bid-evaluation phase**, where bids are opened and scored and a contract is awarded; and an **implementation and monitoring phase**, where contracts are drafted and implemented, monitoring and auditing take place, and appeals may be lodged (Transparency International, 2014).

Similarly, Rendon and Snider (2008) describe the procurement process in terms of planning the procurement, planning the solicitation, issuing the solicitation, selecting the vendor, administering the contract, and closing out the contract. NASPO, the National Association of State Procurement Officers, suggests a model similar to that of Rendon and Snider, though an extra step for negotiations is emphasized prior to awarding the contract. These steps are designed to create a standard process as well as a standard of practice that will result in a successful and ethical outcome. In summary, the process has multiple steps that require due diligence as well as objectivity. Table 2.1 illustrates the general steps and activities of a procurement.

Identifying the Vulnerabilities in the Process

Regardless of the names given to the steps, the process must be transparent and fair to be regarded as legal and ethical. While a less transparent process may still be legal, it may be perceived as unethical or even corrupt, creating reputational costs for the organization that could discourage

Table 2.1 The procurement process

<i>Steps</i>	<i>Activities</i>
Plan the procurement	Complete a needs assessment Develop specifications/requirements for the good or service Establish scoring criteria
Develop and issue the solicitation	Finalize the Request for Proposals (RFP) Publish the RFP
Collect and evaluate bids	Collect confidential bids Open and score bids according to established criteria
Select vendor and award contract	Select vendor Negotiate and award contract Inform other vendors
Monitor and evaluate	Monitor for performance, compliance, and accuracy Perform audits Determine success of the procurement

potential vendors. Additionally, even a procurement that follows a transparent process can be corrupted due to vulnerabilities inherent in the procurement process. Procurement is highly susceptible to fraud, waste, and abuse (Hunsaker, 2009; Thai, 2001; Thai & Grimm, 2000), making it imperative to understand and mitigate the vulnerabilities whenever possible.

Table 2.2 describes some of the vulnerabilities at each step of the procurement process. It is important to remember that mistakes can happen at every step, which is very different from fraud. Mistakes are typically the result of poor training, poor process, simple errors, or other negligent but innocent lapses; fraud suggests the intent to deceive (Dwyer et al., 2014) and should be regarded as much more serious and problematic than even a very large, costly mistake.

As illustrated by Table 2.2, many opportunities exist for a bad actor to take advantage of what can be a cumbersome process. The following chapter will provide a brief background on the criminal justice literature, distinguishing between street crime and white-collar crime, the latter of which encompasses public procurement fraud.

Table 2.2 Vulnerabilities in the procurement process

<i>Steps</i>	<i>Vulnerabilities</i>
Plan the procurement	<ul style="list-style-type: none"> • Incomplete planning can lead to rushed procurements that do not comply with process requirements, such as ensuring competition • Insufficient product/service research could result in over-reliance on vendor assistance in developing the specifications • The specifications could steer the solicitation toward a particular vendor • The scoring criteria could favor a particular vendor
Develop and issue the solicitation	<ul style="list-style-type: none"> • The solicitation could steer the award toward a particular vendor • Favored vendors could receive additional information not available to other bidders that may improve their bid • Reduced or rushed timeframes can favor a particular vendor
Collect and evaluate bids	<ul style="list-style-type: none"> • A favored vendor could receive confidential information about other bids • Multiple bidders could work together to rig the bids • The scoring process could be subjective
Select vendor and award contract	<ul style="list-style-type: none"> • Communication of winning bid could be obfuscated • Protests from non-winning vendors could be ignored
Monitor and evaluate	<ul style="list-style-type: none"> • Poor performance by a favored vendor might go unreported • Contract amendments and overruns may be rushed through without proper evaluation • Counterfeit goods may be accepted • Counterfeit goods may go unreported • Nonconforming (incorrect) goods may go unreported

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Distinguishing Between Street and White-Collar Crime

Street Crime and White-Collar Crime

Abstract The examination of criminal behavior has traditionally been the domain of criminal justice and sociology, and scholars in these fields have made important observations about what criminal behavior is, who commits it, and why. Much of the literature focuses on what might be invariably classified as street crime, such as robberies, assaults, and homicide among others, and this research has provided valuable insights into the factors that facilitate this kind of criminal behavior. While this scholarship was and continues to be invaluable, researchers began expanding their examination of crime and criminal attributes beyond street crime to include crimes committed by executives and organizations, which they termed white-collar crime. Through the contributions of all of these various scholars, there is now a robust literature from which to begin to understand the lives and minds of both street-level and white-collar criminals.

Keywords Street crime · White-collar crime · Characteristics of criminals—age · gender · class · tenure

This chapter provides definitions and descriptions of street and white-collar crimes as a starting place for understanding where and how public procurement fraud fits into the broader study of crime and criminal behavior. Public procurement fraud has not been oft studied in the criminal justice or sociology literatures, but many observations from these literatures can be extended to public sector white-collar crime in general and public procurement fraud in particular.

STREET CRIME

A Definition

What is meant by crime? Essentially crime is behaving in a socially undesirable manner and breaking laws, so it becomes necessary to give some attention to what laws are and how they contribute to a society's structure of control. Laws are, generally, agreed upon rules of conduct and standards of behavior in a society and carry penalties for noncompliance. Punishment is a necessary component and distinguishing characteristic between mere guidance and legal requirement; laws are legitimate and enforceable, with repercussions intended to correct socially undesirable behavior.

Each society determines its own acceptable standards of behavior: drinking ages vary from country to country, as do restrictions on driving and election processes. Despite these types of differences, it is suggested that, historically and seemingly universally, laws are regarded as rules made by elites to serve elites. Early scholars such as Marx (1956) relate law to class and politics, attributing law making to membership in the property-owning class with the political power to protect their interests and way of life. Modern research echoes this observation of the influence of class and power in exerting social control through law and legal institutions (Barak et al., 2018). Barak et al. further clarify how race, gender, and socio-economic standing inform whether individuals are more likely to participate in law making and benefit from society's legal framework and institutions or if they will be largely voiceless and disproportionately victimized by the process. This discussion of the interplay between demographics and either law making or law breaking provides context for the early research into crime and its focus on the lower class and street crime.

A Description

The category of street crime ranges from non-violent crimes, such as shoplifting and burglary, to violent crimes, such as rape, assault, and homicide. They are often spontaneous crimes of opportunity, requiring only a motivated offender, suitable target (victim or property), and absence of a “guardian” who would intervene to assist the target (Felson, 2002). Some street crimes may be more fully vetted and planned, but this appears to be a rarer occurrence. While all kinds of people from various classes may occasionally commit one of these types of crimes, the criminal justice and sociological literature has repeatedly concluded that some characteristics are observed more often than others and are antecedents of criminal behavior. Among the earliest descriptions of “criminal man” is that presented by Lombroso Ferrero (1911), who identifies common physical characteristics of criminals, such as anomalies in the shape of the head, face, and skull, as well as heredity factors, such as being born of a degenerate family with predispositions for mental illness and/or physical illness, or from being born into a criminal family. Lombroso Ferrero also highlights contributing factors of race, age, poverty, and education, which have been recurrent themes in criminal justice and sociology scholarship (Jacoby, 1994). Additionally, early as well as current research suggests that street crime is most often committed by males ranging in age from 15 to 24 years old (National Commission on the Causes and Prevention of Violence report, 1969), with the age-crime curve consistently demonstrating crime peaks around 17 years of age and then decreases over the life of the individual (Felson, 2002; Gottfredson & Hirschi, 1990).

In addition to physical characteristics and demographics, research suggests that street criminals may enjoy a sense of community with one another (Thrasher, 1927), possibly informed by aspects like race and poverty, and there is a status that some criminals achieve among their peers (Sutherland, 1937; Warr, 2002). Thrasher’s early study on gangs expounds upon the attributes of a particular collective that distinguish it from any other similar group and the development of a common history and traditions among the members. Similarly, Sutherland’s “Professional Thief” is trained by his peers, adheres to a code of behavior reinforced by his peers, and enjoys a level of status that distinguishes him from amateurs. While research has expanded greatly since the 1930s, the proliferation of gangs in the 1980s and their persistence in modern times reinforce Thrasher’s and Sutherland’s observations so many decades ago;

Table 3.1
 Characteristics of street
 criminals

<i>Characteristics</i>	<i>Street criminals</i>
Socio-economic class	Lower class, impoverished, underprivileged
Educational attainment	Low, no college
Gender	Male
Age	Juveniles, young adults
Duration	Approx. 5 years (continuous)
Race	Minorities, white
Setting	Spontaneous, easily observed (clear victim)
Background	Criminal history, repeat offenses

community and belonging are still relevant attributes of modern street criminals. Table 3.1 summarizes what are considered common characteristics of street criminals, informed by past and present criminal justice and sociology research.

WHITE-COLLAR CRIME

A Definition

The preceding section sought to clarify what a criminal looks like and the environments in which they are likely to operate. They were observed to be lower class individuals taking advantage of sometimes spontaneous, sometimes not so spontaneous, opportunities. But what if the biases associated with only looking at street crimes could be removed? What happens when attention is directed toward crimes that require a higher level of access? What does that criminal look like and how does that expand the collective view of crime?

These are the questions addressed by Sutherland's "White-Collar Criminality" (1940), where he suggests that characteristics of the offender and offense look a bit different when the crime is one of privilege. He explains that any description of crime that looks exclusively at lower classes is not representative of crime overall, that the focus must be shifted to include crimes that have traditionally received much less attention

because of the characteristics of those committing them. These are white-collar crimes: crimes of business and professional men, crime in the suites instead of the streets.

Like Sutherland, Marcus Felson (2002) challenged the preconceived notions surrounding white-collar crimes and criminals, suggesting that the more accurate title for these types of crimes would be “crimes of specialized access.” This characterization is based on the premise that individuals who commit fraud, embezzlement, and other types of white-collar crimes are able to do so by the nature of their legitimate roles in their organization. For example, a bank teller, by virtue of her position, has access to the vault. Felson’s definition is distinct from others that focus primarily on the individual’s characteristics rather than how the crime is facilitated by organizational factors, enabling blue-collar criminals with access to commit white-collar crimes.

A Description

It has long been held that the individuals in society who commit white-collar crimes look and behave like those who belong to the elite class; they are the ones most likely to hold power and make the rules, which has influenced not only the softer treatment of white-collar criminals but the apparent reluctance to prosecute their crimes (ACFE, 1996). Much of the literature distinguishing crimes of the disadvantaged from crimes of the privileged suggests that white-collar criminals not only look different from street criminals (Piquero & Piquero, 2001; Weisburd et al., 1991:188; Sutherland, 1940) but that the crime settings and opportunities also differ in important ways (Felson, 2002; Shover & Wright, 2001).

The offender-based characteristics of the street and white-collar criminal stand in stark contrast: the impoverished, poorly educated, and youthful perpetrators of street crime are vastly different from the well-educated older males from higher socio-economic classes that have been found to engage in white-collar crimes, such as embezzlement, bribery, and kickbacks (Felson, 2002; Weisburd et al., 1991). One of the few similarities between the perpetrators of these and street crimes is the low percentage of female perpetrators overall, though likely for different reasons. As with street crime, women were observed to commit fewer of the white-collar crimes, which is generally attributable to lower numbers of women holding the types of organizational positions that present the most felicitous opportunities for committing these types of crimes (Barak

et al., 2018). The lower incidence of women perpetrators of street crime is at least somewhat related to social mechanisms that define and impose expected male and female roles and behaviors. The patriarchy extolls that crime is simply not ladylike.

In addition to characteristics such as education and gender, age is a point of departure between white-collar and street criminals. As mentioned previously, the typical street criminal is younger, with a peak during their late teens followed by a tapering off throughout the course of their life and expected end to their criminal activities at or before the age of 30. White-collar criminals are typically older with an average age range of 30–40 years old at the time of their first arrest (Piquero & Benson, 2004). Also, whereas street criminals were observed to have a career lasting approximately 5 years (Farrington, 1992), repeat white-collar offenders were observed by Weisburd and Waring (2001) to have criminal careers lasting an average of 14 years. They also observed a small number of cases of white-collar criminals continuing into their 70s.

The group or community dynamic of some street criminals also contrasts with the white-collar criminal. Unlike Sutherland's "Professional Thief" from the 1930s or street gangs, the white-collar criminal generally does not belong to a gang or collective and prefers to commit crimes that are unnoticed and clandestine in nature. They are not likely to have been tutored in the art of theft or belong to a community of criminal peers, though it is possible that some white-collar criminals are members of crime organizations. Typically, however, it seems reasonable to assume, based on case studies, that white-collar criminals are not part of a criminal community with an extensive criminal background but rather act alone and in a covert way. The Association of Certified Fraud Examiners 1996 Report to the Nation found that while two-thirds of the organizations in their study where occupational fraud had been committed regularly conducted background checks on new employees, less than 8% of the perpetrators had convictions prior to committing their frauds (ACFE, 1996). Admittedly, this doesn't mean that none of the perpetrators in their study had committed crimes prior to the crime they committed in the victim organization included in the study, but it could suggest that the perpetrator does not routinely commit crimes or, as suggested by Piquero and Benson (2004), does not specialize in white-collar crime specifically, though it's possible they just haven't been caught previously. While they may not be lifelong thieves, however, there is some evidence

that at least some of them, in fact, are likely to have a history of interactions with the criminal justice system (Piquero & Benson, 2004). Though this may be the case for some, the number of crimes they commit is much lower than that of street criminals and they may take a long break from crime between their first offense and later offenses, a concept Piquero and Benson termed “punctuated situationally dependent offending.”

A more relevant view of the white-collar criminal may center around the specific setting more so than the individual’s characteristics, that a person who may not have learned criminal behavior from a group of peers may just be more likely to take advantage of a specific opportunity and behave in a way that they have not before and may not again (Piquero & Benson, 2004). This offense-based view supports Felson’s definition of white-collar crimes as being more concerned with the environment that provides the opportunity than the characteristics of the individual, and given the opportunity, individuals from different classes, ages, and races may be just as likely to engage in embezzlement, bribery, or other white-collar offenses. One of the limited number of quantitative studies actually found that many of the white-collar perpetrators were not members of an elite upper class but were among the ranks of middle-management with average incomes (Benson & Kerley, 2000; Weisburd et al., 1991). Their crimes align with the “specialized access” view more so than the offender-based perspective. Table 3.2 summarizes this and several other distinctions between street and white-collar criminals.

Table 3.2 Characteristics of street criminals versus white-collar criminals

<i>Characteristics</i>	<i>Street criminals</i>	<i>White-collar criminals</i>
Socio-economic class	Lower Class, impoverished, underprivileged	Middle or upper class, Privileged
Educational attainment	Low, no college	College-educated
Gender	Male	Male
Age	Juveniles, young adults	Middle-aged, older
Duration	Approx. 5 years (continuous)	10–14 years (intermittent)
Race	Minorities, white	White, minorities
Setting	Streets, homes, public easily observed (clear victim)	Occupational, clandestine (unclear victim)
Background	Criminal history, repeat offenses	No/limited criminal history, no repeat offenses

The pathology of the lifelong criminal doesn't directly apply to the white-collar opportunist, which leaves a gap in our understanding: why does an individual that does not regularly or may not ever engage in deviant behavior decide to seize an opportunity to commit a criminal act? The next chapter will define and describe public procurement fraud in the context of white-collar crime. Following this definition and description, an organizational behavior lens will be used to explore why most public procurement officers will conduct themselves ethically and legally while some will take advantage of opportunities to exploit vulnerabilities in the process to unduly benefit themselves.

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Public Procurement Fraud

Public Procurement Fraud

Abstract White-collar crime is lacking in the rich research that defines and describes street crime. This gap has several likely explanations: the secret nature of the crimes makes them largely unobservable and difficult to study; surveys of perpetrators of crimes of any sort can be unreliable and difficult to validate; the perpetrator's characteristics in terms of class and status may make them less willing to discuss their crime; and organizations may fear reputational costs for admitting that a crime has taken place. The majority of white-collar crime studies are case studies with limited forays into data-driven research (Piquero & Benson, 2004). Even fewer studies involve public organizations, with most of the fundamental white-collar research centering on corporate settings. Those studies that do include white-collar crimes in the public sector often focus on corruption involving elected officials, such as bribes and kickbacks, or embezzlement. Public procurement fraud has been somewhat studied in the field of public administration, though data remain elusive.

Keywords Public procurement fraud defined · Types of fraud · Vulnerabilities in the process for each type of fraud

This chapter will build from the preceding chapters to provide an overview of the white-collar crime of public procurement fraud. A definition and description are followed by a brief discussion of some relevant organizational behavior frameworks that are useful for understanding employee conduct and why some public employees abuse their position while many do not.

WHAT IS PUBLIC PROCUREMENT FRAUD?

A Definition

Procurement fraud is necessarily an occupational crime: it is committed within the parameters of an individual's legitimate job responsibilities, is an abuse of organizational trust, and requires specialized access to or involvement in a process that is lengthy, cumbersome, and vulnerable to exploitation. It is situationally dependent in that not every employee has sufficient access to manipulate the process, that the offender must have achieved a certain level of responsibility or position within their organization. For purposes of public procurement fraud, it is accurate to surmise that individuals committing fraud are able to do so because of the various activities and functions inherent in their role as a procurement officer: procurement officers can steer contracts to particular vendors, score bids with bias, and exploit other features of the procurement process to achieve personal benefits, all under the guise of just doing their job.

Several definitions are appropriate for describing procurement fraud in general and public procurement fraud specifically: it is characterized as an illegal act or acts that include the use of deception and guile for personal gain (Edelhertz, 1970); it aligns with Black's Law Dictionary's definition as "the cause of an error bearing on a material part of the contract, created or continued by artifice, with design to obtain some unjust advantage to the one party, or to cause an inconvenience or loss to the other" (Garner & Black, 2009); and, finally, public procurement fraud specifically is abuse by a federal, state, or local government employee in a position of trust (Cordis, 2014) who solicits or accepts an unreasonable favor from outside vendors, often in return for a special treatment of the supplier (Ksenia, 2008; Passas, 2007). Government auditors, often the last line of defense in detecting fraudulent activity, define procurement fraud as improper and dishonest behavior that includes theft as well as the manipulation of data and information, thereby inflicting economic damage and

reducing trust in government (O'Regan, 2008). To be clear, fraud cannot be confused with a simple mistake; while it can be common for employees to make errors that result in losses, the distinguishing factor that identifies the act as fraud is the element of intent. As stated in Chapter 1, intent is a necessary component and must be demonstrated to prove that a criminal act was committed (Dwyer et al., 2014).

A Description—Characteristics of the Criminal vs. the Crime

Many individuals committing public procurement fraud have conformed with the offender-based descriptions of other white-collar criminals: educated, middle class or higher, and middle-aged rather than adolescent. Additionally, they are typically male and hold mid-level or higher positions (Gottschalk & Smith, 2016). However, these characteristics don't always hold true, as in cases where, for example, younger military personnel with lower educational attainment from more modest socio-economic backgrounds have been caught accepting bribes or kickbacks from vendors while deployed abroad. Because procurement fraud has not been widely studied in the private sector either, it's likely that many of those perpetrators might not look like the typical white-collar criminal either. For these reasons, procurement fraud, regardless of sector, is perhaps better understood from the offense-based perspective.

The offense-based view suggestion that white-collar crime necessarily requires specialized access (Felson, 2002) offers better support for assessing procurement fraud: procurement fraud is committed by those who participate in the process, regardless of any individual characteristic. The participants may not be in high-ranking positions within their organizations, contrasting with the offender-based assumption that the white-collar perpetrator is likely at the executive level, but they do have access and, therefore, the ability to exploit the process for personal gain. Procurement personnel may be among the rank and file, falling within all different levels of an organization's hierarchy. When considering public procurement personnel in small cities or counties, they may even have more characteristics in common with the street criminal: modest background, some education, and younger. This being the case, it may be more instructive to set aside any offender-based predictors and focus more narrowly on the facilitating aspects of the offense.

Public procurement fraud has been the subject of recent scholarship, with studies ranging from theoretical and descriptive in nature

(Amundsen, 1999; Joseph, 2007; Søreide, 2002) to those using aggregated data at the state level (Goel & Nelson, 1998; Johnson et al., 2011) or country level (ACFE, 2016). Additionally, some studies have been based on surveys or used official government reporting (Rendon & Rendon, 2016). One study of public procurement fraud perpetrators in Norway (Gottschalk & Smith, 2016) contributed to the literature on detection and the critical role of whistleblowers, which is a key element of detecting procurement fraud but does not give significant attention to the offender- and offense-based characteristics of the crimes. While much can be learned about public procurement fraud from these studies, there are still gaps owing to offender- and offense-based characteristics of the crimes and how the public procurement fraud perpetrator fits into the larger criminal justice and sociology research of white-collar crime and criminals.

A Description—Types of Procurement Fraud

As discussed in previous chapters, the purchasing process has numerous steps with many vulnerabilities. These vulnerabilities provide opportunities for several types of fraud, ranging from conflicts of interest to counterfeit goods. According to the Association of Certified Fraud Examiners (ACFE) Report to the Nations on Occupation Fraud and Abuse (2016), governments are more susceptible to conflicts of interest, bribery, and billing fraud. A brief description of these and other common types of procurement fraud is provided below.

Title 18 of the United States Code (18 U.S.C.) describes specific fraud schemes related to pricing, conduct, kickbacks, counterfeit products, mischarging, conflict of interest, and bribery. Fraudulent activities include steering contracts by developing specifications or evaluation criteria that favor a particular vendor and conflicts of interest, where the procurement officer has a material interest in one of the vendors through family connection, economic stake, or an emotional relationship (O'Regan, 2008), as well as bid rigging, where a favored bidder is provided with information about rivals' bids so that they can adjust their own bid, and collusion, where multiple bidders coordinate bids in order to fix prices (Lengwiler & Wolfstetter, 2006).

Four broad classifications of corruption in public procurement were developed by Peter Smith (2017), Managing Editor of Spend Matters Europe and Director of Public Spend Forum Europe, and were used

Table 4.1 Smith's fraud classifications

<i>Type of fraud</i>	<i>Activities</i>
Reducing competition	Single tender, tailoring specifications, steering contracts, collusion
Biased supplier selection	Inside information/bid rigging, evaluation design bias, scoring bias, conflict of interest
Corrupt contract negotiation/management	Noncompetitive terms and contracts, contract changes, contract overruns and extensions
Over/false payments	Over-billing, over-charging, fake invoices, counterfeit goods

to develop the original research in chapter six: **reducing competition, biased supplier selection, corrupt contract negotiation and management, and over/false payment**. These classifications are presented in Table 4.1.

Competition is a tenet of a fair and equitable procurement process: the more competition, the better the price and value. While some procurements will not have high levels of or maybe any competition because of the nature of the good or service being procured, a competitive process is a desirable process, and some justification is usually required to side-step competitive bidding. An example of reducing competition when the good or service should be competitively bid is designing product specifications such that only one vendor meets the requirements or only inviting one vendor to bid on the contract. Collusion is another example of reduced competition, though this is typically committed by the competing vendors, not the procurement officer. Examples of biased vendor selection include bid-rigging, as discussed previously, as well as manipulation of the scoring process. During the initial development of the RFP, procurement personnel establish scoring criteria by which they will evaluate each of the bids. Biased scoring can include the weighting of some criteria over others in order to favor a particular vendor or to subjectively score the bids rather than strictly according to the objective application of the evaluation criteria.

Corrupt contract negotiations are perhaps less visible than other types of procurement fraud and, unlike the two previously discussed categories

of fraud, do not directly impact other vendors. In contrast, contract-related fraud typically has to do with harming the public entity rather than providing benefit to one vendor at the expense of another. Contract terms and conditions, extensions, and changes can be designed to benefit a vendor who will then provide a kickback to one or more of the procurement officers. It is important to note that many types of activities can fall under one or more of the broader fraud categories; for example, contract manipulation can fall under the category of contract negotiation and management as well as reducing competition. Similarly, kickbacks and bribes are possible throughout the process. The last category, over/false payment, like corrupt contract negotiations, does not directly impact other vendors and instead financially harms the public agency. This category includes buying too much, paying too much, paying for undelivered goods, counterfeit goods, and nonconforming (incorrect) goods. In addition to harming the public agency, counterfeit and nonconforming goods may have the potential to cause physical harm to end users of a product as well. Table 4.2 indicates where each type of fraud is likely.

The procurement process itself may be the largest inducement to commit procurement fraud; the opportunities to achieve personal gains are numerable and difficult to detect. Through their legitimate and specialized access to the process, procurement officers have a wide berth to determine features of the procurement that could serve their personal interests. This reality begs the question: why don't more public procurement officers exhibit this pro-individual behavior and commit fraud? The next chapter will provide a brief description of some of the organizational behavior approaches for understanding how a public officer might perform their duties, in terms of either pro-organizational or pro-individual behavior.

Table 4.2 Vulnerabilities in the procurement process and corresponding fraud types

<i>Steps</i>	<i>Vulnerabilities</i>	<i>Type of fraud</i>
Plan the procurement	<ul style="list-style-type: none"> • Incomplete planning can lead to rushed procurements that do not comply with process requirements, such as ensuring competition • Insufficient product/service research could result in over-reliance on vendor assistance in developing the specifications • The specifications could steer the solicitation toward a particular vendor • The scoring criteria could favor a particular vendor 	<ul style="list-style-type: none"> • Reducing competition • Biased supplier selection
Develop and issue the solicitation	<ul style="list-style-type: none"> • The solicitation could steer the award toward a particular vendor • Favored vendors could receive additional information not available to other bidders that may improve their bid • Reduced or rushed timeframes can favor a particular vendor 	<ul style="list-style-type: none"> • Reducing competition • Biased supplier selection
Collect and evaluate bids	<ul style="list-style-type: none"> • A favored vendor could receive confidential information about other bids • Multiple bidders could work together to rig the bids • The scoring process could be subjective 	<ul style="list-style-type: none"> • Biased supplier selection
Select vendor and award contract	<ul style="list-style-type: none"> • Communication of winning bid could be obfuscated • Protests from non-winning vendors could be ignored 	<ul style="list-style-type: none"> • Biased supplier selection • Corrupt contract negotiation/management

(continued)

Table 4.2 (continued)

<i>Steps</i>	<i>Vulnerabilities</i>	<i>Type of fraud</i>
Monitor and evaluate	<ul style="list-style-type: none"> • Poor performance by a favored vendor might go unreported • Contract amendments and overruns may be rushed through without proper evaluation • Counterfeit goods may be accepted • Counterfeit goods may go unreported • Nonconforming (incorrect) goods may go unreported 	<ul style="list-style-type: none"> • Corrupt contract negotiation/management • Over/false payments

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Applying Organizational Behavior Approaches to Public Procurement Fraud

Organizational Behavior and the Decision to Commit Fraud

Abstract Because public procurement fraud is an occupational crime, it must be examined in the context of the organization in which the crime takes place. The study of organizations has been a central theme of both business and public administration research, evolving from a narrow focus on processes and structures for enhancing organizational performance to an expanded and more enlightened view of the workers and their role in achieving organizational goals. The early scholars like Frederick Taylor, Max Weber, and Luther Gulick emphasized processes and structures that would create organizational efficiencies, but it was theorists like Chester Barnard, Herbert Simon, and Abraham Maslow that moved the needle forward by focusing not on task completion or locus of control strategies but rather on the actual people within the organization (Rainey, 2014). This would eventually lead to the Human Relations School, generating approaches for recognizing employees as people with needs and problems as well as how to address those needs and mitigate those problems to create organizational success.

Keyword Public service motivation · Stewardship · Workplace deviance · Principal-agent · Motivation · Cressey's Fraud Triangle

There have since been many more theoretical frameworks that recommend methods for keeping employees satisfied with their work in order to improve organizational as well as individual performance, but there will always be employees that are not satisfied by their work, feel slighted by lack of promotion or insufficient remuneration, or simply place their own goals above those of the organization. The following discussion will address two perspectives of workplace behavior, referred to as pro-organizational and pro-individual. The pro-organizational view, also termed prosocial, is characterized as an employee that places the organization's goals above their own and is trusted while the pro-individual view is characterized as a self-interested employee that places their goals above those of the organization and is not trusted. Applying pro-organizational and pro-individual perspectives may provide insight into the disparate behaviors of those public procurement officers who do and do not commit fraud.

Following the discussion of pro-organizational and pro-individual approaches, Cressey's (1953) Fraud Triangle will be explored as a contributing factor for the decision to commit public procurement fraud. The Fraud Triangle is included in this organizational behavior discussion because it is believed that its dimensions could be more salient than other individual and organizational characteristics.

PRO-ORGANIZATIONAL

Two approaches to employee behavior that is pro-organizational are stewardship theory and public service motivation. While stewardship theory is based primarily on private organizations and public service motivation is thought to advance the public service ethic in public organizations, they do overlap in important ways. They both view the employee as trustworthy and a proponent of organizational success over their own, and they both identify intrinsic motivation as an instrumental factor for this behavior. Like all theories, however, their explanatory power is mostly limited to prosocial behaviors.

Stewardship Theory

Stewardship theory is an approach developed in the business literature, informed by psychology and sociology, to offer a counter view to principal-agent theory, a pro-individual perspective which will be

discussed later in this chapter. Stewardship theory concerns the relationship between the principal (the owner of a corporation) and the manager entrusted by the principal to oversee operations faithfully and responsibly. Davis et al. (1997) attribute the trustworthy manager to intrinsic motivation and goal alignment between the manager and the organization as well as a prioritization of organizational goals over individual goals when they do not align, believing that his individual goals will be met through the achievement of organizational goals. In this perspective, stewardship is similar to public service motivation: employees with high levels of public service motivation are intrinsically motivated and thus derive satisfaction from organizational success, which translates into improved public service in place of greater shareholder wealth in private sector terms. These two frameworks share a feature of reciprocity, where the individual is expected to benefit in the future through self-sacrifice in the present.

Despite these similarities, the two theories can be considered to diverge when it comes to who the individual is serving and the implications for ethics. Stewardship theory is not a public service theory; the steward's behavior is to serve the organization and whatever ends that entity is attempting to achieve. For example, a manager in a tobacco company is considered a good steward if they can increase wealth for the organization, despite the ill effects of tobacco products on individual and public health. A good steward is not concerned with negative externalities produced by the success of the organization, which draws a stark line of demarcation between the steward and service-oriented individual described by public service motivation. Ethical conduct could also present a point of separation, as a good steward may undertake unethical means in service to organizational goals and could actually be rewarded if it results in positive outcomes like increased wealth for the organization. This is not to suggest that good stewards will or do behave unethically, it is merely to stress that ethical conduct is part and parcel of public service motivation and is not a requirement under stewardship theory.

Stewardship theory provides a useful explanation for behaviors that are contrary to the more commonly expected self-interested rational man. It can be applied to public procurement to explain why an officer would not engage in fraudulent activities, although it could conceivably be used to explain why a fraudulent activity would be permitted. A fraudulent activity carried out by the steward that enhances organizational standing and wealth could still fall under good stewardship. For example, a procurement officer who contracts for a good with a company owned by a family

member is committing a conflict of interest; however, if the officer is able to pay less for the good by contracting with the family member rather than any other vendor, that officer could be a good steward despite this unethical behavior. Public service motivation, the next framework to be discussed, is similar to stewardship in terms of the individual's intrinsic motivation and pro-organizational behavior; however, it is very different in terms of who is benefitting from the individual's behavior and the emphasis on ethical conduct.

Public Service Motivation

Public service motivation (PSM) is an interdisciplinary framework born out of public administration and organizational research in the early 1980s to explain why an individual chooses to engage in work that serves the public good. Founded on the principle of a service ethic, or the desire to do work that serves others, benefits society, and entails integrity (Rainey, 2014), public service motivation builds off the premise that intrinsic values are a key source of motivation. Public service motivation is not to be confused with public sector motivation, whereby an individual is motivated by extrinsic factors found in the public sector, such as pensions, job security, and other benefits (Perry & Hondeghem, 2008). Additionally, public service motivation is not exclusive to the public sector and public organizations; individuals working in private and nonprofit organizations may also have high levels of public service motivation, as it is a characteristic of the individual and not confined to a particular domain. Many individuals with public service motivation may not work in the public sector but do engage in activities that benefit society overall, such as donating blood and volunteering, among others (Perry & Hondeghem, 2008), extending the expression of public service motivation beyond the organizational setting.

While public service motivation is often understood as a public administration framework and applied exclusively to public sector employees, it is interdisciplinary in nature and draws from sociobiology, evolutionary and social psychology, economics, sociology, and even political science (Koehler & Rainey, 2008). The contributions from other fields reinforce the suggestion that humans have an innate awareness that there are benefits to altruism, often in terms of reciprocity and survival (Perry & Hondeghem, 2008), and that they have a moral sense (JQ Wilson, 1993) that informs their behavior. Additionally, there is evidence

that public service motivation positively influences workplace behavior in terms of organizational commitment, work satisfaction, collegiality among coworkers, and charitable activities (Rainey, 2014).

Stewardship theory, as discussed above, shares similarities with public service motivation relevant to intrinsic motivation and promoting the organization's goals over those of the individual. Two points of departure were mentioned above: the beneficiary of the individual's conduct and the extent to which ethical conduct was emphasized. Unlike stewardship theory where the organization (owner and shareholders) is the beneficiary, public service motivation describes the purpose of the individual's behavior as benefitting society as a whole. The motivation is to serve the organization only in so far as the organization benefits society. The second distinction, ethical conduct, can be taken in tandem with the prior point about who benefits, as society cannot be understood to benefit if the behavior is unethical. Whereas stewardship theory might emphasize the ends, public service motivation and public organizations in general would emphasize the means. Ethical conduct is an expectation of public organizations and public employees, and most public organizations have codes of ethics to guide employee behavior. Additionally, professions have ethical codes of conduct; the medical and legal professions have ethical standards for their members, as does the public procurement profession. The National Institute for Governmental Purchasing (NIGP), the Institute for Public Procurement, developed an ethical code for public procurement officers, which establishes guidelines for their behavior (NIGP, n.d.). In the conflict-of-interest example provided above, it was determined that the steward's behavior was pro-organizational and, therefore, not problematic. According to public service motivation and the purchasing ethics established by NIGP, that behavior would have been unethical, creating harm to the organization and society. Under public service motivation, the procurement officer would recuse himself from that procurement or, at a minimum, disclose that he had an existing familial relationship with a potential vendor.

It is important to note that public service motivation can create an unwarranted expectation that public employees will behave ethically and not engage in behavior that harms the organization or society. This represents a limitation of the framework: it cannot explain the misdeeds of public employees other than in a very specific context where "noble-cause corruption" (Crank & Coldero, 2000) is observed. This type of corruption is still intrinsically motivated and intended to serve the public

well-being, it just employs unethical and/or illegal means for achieving those ends. It would not extend to self-serving public procurement fraud.

Both stewardship theory and public service motivation offer explanations for the pro-organizational behavior of individuals that characterizes the actions of most public procurement officers. The majority of public procurement professionals are believed to be good stewards to the organization as well as society, satisfying their intrinsic motivation to serve the public good. Two contrary frameworks are presented next under the classification of pro-individual behaviors.

PRO-INDIVIDUAL

As stated previously, some employees are extrinsically motivated and place their interests above those of the organization. Two pro-individual perspectives are principal-agent theory and workplace deviance. Principal-agent theory is a very common approach to understanding economic motives for behavior, which can lead to undesirable behavior from the vantage point of the organization; workplace deviance also leads to undesirable behavior but is not necessarily an economically motivated response, as it can be born out of perceptions of injustice in the workplace. These two approaches, while similar in effect, originate from very different places. Despite these differences, they both suggest a lack of trust and can explain why a public procurement officer might commit fraud.

Principal-Agent Theory

Principal-agent theory describes the relationship between the principal, or owner, of a corporation and his agent, or entrusted representative, typically a manager. The premise of the theory is that an owner of a corporation (principal) at some point needs to delegate responsibility to a manager (agent) to handle operations and enhance organizational returns (wealth). The agent is viewed in economic terms as rational and self-interested, whose goals do not align with the principal's and will take advantage of opportunities to benefit himself to the detriment of the principal (Davis et al., 1997). It is the antithesis of the steward, whose goals align with the organization's and serve the principal. It is possible that the agent's and the principal's goals align, in which case there is no harm to the principal; however, principal-agent is more so used to illustrate

problematic behavior where the principal incurs costs or losses due to the pro-individual behavior of the agent.

This theory has applications for understanding the behavior of public procurement officers who commit fraud. These officers are pro-individual, choosing to serve their interests over those of the principal (citizens/society), for financial gain. It is possible that the officer's goals align with the citizens' interests, in which case no harm is realized (no fraud is committed). An example would be a sole source situation where a particular good is needed that cannot be competitively sourced because there may be only one supplier; even if this supplier is a friend of the procurement officer, the officer cannot be accused of steering the contract or a conflict of interest because there is no alternative vendor. Alternatively, if there were alternative vendors and the procurement officer had to competitively source the good, they could develop the specifications to give their friend an advantage, potentially costing the citizens (principal) more money while providing a benefit (financial or social) to the officer (agent) in the form of a bribe, kickback, or some other personal benefit. In this case, the individual's goals and the citizens' interests did not align and harm was caused if the good could have been acquired at a better price from a different vendor. Additionally, the organization can suffer reputational costs as a result of this behavior.

Unlike stewardship theory and public service motivation, extrinsic motivation for personal reward drives agent behavior. Though principal-agent theory does not specifically speak to illegal behavior, the behavior is regarded as harmful. Another type of harmful behavior that can cross the line into illegal behavior is workplace deviance. Like principal-agent theory, workplace deviance describes pro-individual and extrinsically motivated behavior; unlike principal-agent theory, workplace deviance is not strictly economic and is often a reaction to a workplace issue, such as a denied promotion or poor performance evaluation.

Workplace Deviance

The term workplace deviance covers a host of dysfunctional workplace behaviors, ranging from surfing the Web during working hours and stealing office supplies to acts of interpersonal violence and theft (Bennett & Robinson, 2003). The title of workplace deviance is one of many names that have been assigned to disruptive and undesirable

behavior, alternatively referred to as antisocial, anticitizenship, and workplace aggression, among others (Bennett & Robinson, 2003). Regardless of title, the behavior is that which runs afoul of organizational norms, is directed at organizations or other organizational members, and intentionally causes harm or has “the propensity to cause harm” (Bennett & Robinson, p. 251).

Similar to street crime research, workplace deviance studies have generally focused on lower-level individuals within the organization, leaving gaps in organizational understanding of why an executive engages in deviant, anticitizenship behaviors, such as theft and misrepresentation of financial information. White-collar crimes can be described as workplace deviance, given that the acts are intentional, cause harm to the organization, and go against the established standards of behavior; because white-collar crimes fit these criteria and public procurement fraud is a white-collar crime, public procurement fraud is regarded as workplace deviance.

Most employees of an organization will not steal from the organization, violently assault a coworker, or engage in other deviant behaviors. The question becomes what causes an employee to become dissatisfied to the point where they will intentionally inflict harm on their workplace or a coworker? Organizational behavior researchers have identified several catalysts for this pro-individual behavior and have categorized them as deviance as reactions to experiences, which includes frustration, perceived injustices, powerlessness and lack of autonomy, and shame; deviance as a reflection of personality, which includes traits such as low levels of conscientiousness and honesty; and deviance as adaptation to the social contract, which includes norms that facilitate deviance, pressure from workgroups, and the extent to which coworkers engage in deviant behaviors (Bennett & Robinson, 2003). The possibility that external factors related to personal life, such as substance abuse and discord in relationships, drive this antisocial behavior requires further attention: outside economic factors have been suggested by Piquero and Benson (2004) as explanations for stable, middle-class individuals to engage in white-collar crime. It is reasonable to propose that organizational as well as external factors that threaten the well-being of the individual can result in deviant behavior in the workplace.

Deviance as a reaction to workplace experiences has been widely studied, and one of the facilitators of workplace deviance under this umbrella, perceived injustices, may be particularly applicable to public

organizations in the context of public service motivation. While an individual may undertake a number of activities in reaction to perceived injustices, some of the activities may be more constructive than destructive; principled organizational dissent, as explained by Koehler and Rainey (2008), “includes protest behaviors, such as whistleblowing, intended to address situations that contravenes the individual’s moral, ethical, or personal standards.” This is an example of positive workplace deviance, where the norms are being challenged because they are perceived to be inappropriate or do not serve the stated public interest of the work. Colquitt and Greenberg (2003) describe dimensions of organizational justice in terms of perceptions of fairness: fairness in the outcome of decisions, fairness in procedures for making decisions, and fairness in the implementation of decisions by organizational leaders. If an employee or employees believe one or all of these decision aspects are biased or unjust, they may take a principled dissent approach by whistleblowing, or they may engage in negative behaviors ranging from sabotage to theft to violence.

An interesting aspect of workplace deviance is that there is variation in what is considered deviance, that it depends largely on who is asked to assess and characterize the observed behavior (Bennett & Robinson, 2003). In the stewardship example above, the conflict of interest committed by the corporate procurement officer would likely not be regarded as workplace deviance: the organization benefitted from the lower price and no harm was inflicted. Using principal-agent theory to assess the same scenario would also likely result in an absence of workplace deviance. However, a public service motivation view would conclude that the conflict of interest was an example of workplace deviance in which the citizenry was harmed, possibly attributable to self-interest on the part of the procurement officer, an expression of frustration in the work itself, or perhaps as a result of perceived injustice regarding pay or some other workplace issue. The intent of this discussion is to clarify that the same behavior can be judged differently based on organizational factors inherent in each of the sectors. Workplace deviance is an interesting and useful frame for assessing behavior, though it is subjective.

APPLYING CRESSEY'S FRAUD TRIANGLE TO PUBLIC PROCUREMENT FRAUD

The preceding discussion of approaches to organizational behavior reduced individuals in terms of their motivations (extrinsic and reward-focused or intrinsic with satisfaction derived from the work) and whether they prioritized their goals or those of the organization. The following discussion of Cressey's Fraud Triangle is included to suggest that the elements he identifies (motivation, opportunity, and rationalization) may be more relevant determinants of whether or not an individual will commit public procurement fraud.

Cressey's (1953) study of white-collar embezzlers is characterized as a trust violation (Cressey, 1950; Sutherland, 1940), specifically a violation of financial trust. Because of the position of financial trust placed in procurement officers, public and private, Cressey's observations can seamlessly be extended to the white-collar financial crime of public procurement fraud. Based on this research of trust violation, Cressey determined that economic motives alone did not provide sufficient motivation for committing this violation of trust, that other elements were required for an individual to make the decision to commit fraud. Through his research, he was able to identify contributing factors that ultimately became the Fraud Triangle.

The Fraud Triangle is comprised of three elements: motivation, opportunity, and rationalization. Motivation in this context differs from the intrinsic and extrinsic motivation described in pro-organizational and pro-individual behaviors; motivation in this context can be understood as a sense of desperation in the face of a problem that does not appear to have a legal solution (Cressey, 1953). This source of motivation is not financially or satisfaction-based; it is perceived as pressure and can stem from a personal or work-related problem. The second element is opportunity, or the ability to commit a crime, which is enabled by the individual's position of trust and facilitated by an identified weakness or weaknesses that can be exploited. The third element, rationalization, combines a benefit-risk assessment with a justification for committing the crime. The benefit-risk assessment must demonstrate that the benefits of the crime outweigh the risks of getting caught, and the justification must be strong enough to counteract any internal voice decrying the act. Because fraud in this model is not the act of a greedy person but rather a desperate person with no alternatives, it is reasonable to assume that their inner voice would, at

least initially, be quite strong and therefore effective in preventing the crime. At some point, however, the inner voice dulls, and the justification becomes more and more real. Once all three requirements are satisfied, there is nothing to prevent the fraudulent act; if one or more elements is missing, the average individual is not likely to betray their position of financial trust and they will not commit the fraudulent act.

Each element has aspects that relate to the other previously discussed organizational behavior perspectives. With regard to motivation and in the context of workplace deviance, perceptions of injustice or lack of fairness may be sufficient to provide the required pressure to act in an illegal manner. Individuals feeling they are underpaid, undervalued, or treated differently than their coworkers may also believe that the organization deserves to be harmed, which addresses the element of rationalization. If this employee is in a position of financial trust, as in a procurement officer, then all elements of the Fraud Triangle would be present and there may be nothing to prevent them from committing public procurement fraud as an intentional act of workplace deviance.

Even stewards and public service motivated individuals could commit fraud according to the Fraud Triangle. The acknowledgment that the required motivation/pressure can come from outside the workplace and be attributable to personal circumstances provides non-work-related factors to provide motivation for workplace crime. Unlike workplace deviance as a motivator where harm is the intent, harm derived from a steward or public service motivated individual could just be an unavoidable consequence of an illegal solution to a desperate problem. The element of opportunity is met if the individual holds a position of financial trust, trust being cornerstones of stewardship theory and public service motivation, and the justification will eventually come if the problem is dire enough. The Fraud Triangle could be very effective for explaining criminal behavior of otherwise dedicated public servants or organizational stewards who find themselves in an extreme personal situation with no other solution.

It may be a little more straight-forward to extend Cressey's Fraud Triangle to principal-agent theory, where the justification element may be easier to reconcile than in the other organizational approaches. If the individual is already motivated by self-interest, their internal voice may not be very loud in its opposition to committing a crime. Additionally, they may be willing to commit fraud even without significant pressure to do so if the benefits of the crime greatly outweigh the risks of being

caught. One complication could be if a manager is perceived to be an agent rather than a steward; in this case, they may not be in the necessary position of financial trust or, if they do hold such a position, there may be additional oversight that reduces or removes the ability to commit a crime. Under the principal-agent approach, the Fraud Triangle will only be complete if there is no impediment to the opportunity element.

Now that public procurement fraud has been discussed in the context of criminal justice and sociological studies of white-collar crime, defined and described based on public procurement research, and considered from organizational behavior perspectives, it is time to apply these observations to an original study of public procurement fraud. The following chapter presents a study of public procurement fraud, including offender- and offense-based characteristics. The study is framed by the preceding chapters of this book and provides observations for comparing to the previous criminal justice, public procurement, and organizational behavior research.

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A Study of Public Procurement Fraud

Framing the Study

Abstract The preceding chapters were intended to provide a frame for this study of public procurement fraud. This original research was conducted to build a better understanding of both the offender-based and offense-based elements of this type of white-collar crime. Additionally, attempts were made to determine whether organizational behavior frameworks could be applied to these crimes in terms of motive. This research was guided by questions relevant to (1) which are the more common types of public procurement fraud, (2) what are the offender- and offense-based characteristics of these crimes, and (3) can inferences be made about the motivation for the criminal behavior.

Keywords Procurement fraud research · Characteristics of public procurement fraud criminals · Prevalence of fraud type · Whistleblowing

PURPOSE OF THE STUDY

Much of what is known about white-collar crimes and criminals comes from case studies, in stark contrast to the rich, quantitative-based street crime research (Piquero & Benson, 2004). Two notable efforts were made in the 1980s to collect and analyze data based on white-collar

convictions in U.S. federal courts through a review of presentence investigation reports prepared by federal probation officers. The data were collected from corporate criminals, not public sector perpetrators, who had committed crimes such as embezzlement, mail fraud, income tax fraud, and bribery, among others. While these are violations of trust, none of them is easily related to procurement fraud, and the methods for committing the crimes are also not expected to align; to commit embezzlement or income tax fraud, for example, the criminal does not need to involve any other members to assist with the crime, whereas public procurement fraud in most cases necessarily involves at least two people: a procurement officer and a vendor.

For these reasons, it is essential that procurement fraud be studied in its own right, building knowledge based on its unique characteristics. Much of the white-collar crime research and organizational behavior literature has centered on observations from the private sector. Sutherland, Felson, and other early criminal justice and sociology scholars focused on crimes taking place in corporations, and none of them examined the procurement function in particular. Studies of organizational behavior are more inclusive of the public sector, though much of the workplace research is of the private sector and merely extended to the public sector, which does not create new knowledge for public organizations specifically. Therefore, this study is additive to the literature for its focus on the public sector with potential for informing the private sector, due to a general lack of procurement fraud studies.

As provided in Chapter 3, public procurement fraud has been the focus of several studies, though none has taken the interdisciplinary approach used in the study presented here; this study is informed by criminal justice and sociology research as well as organizational behavior perspectives to provide a base for several comparisons: (1) how public procurement fraud offender-based characteristics align with the street and white-collar criminal characteristics, (2) how public procurement fraud offense-based characteristics align with those of street and white-collar crimes, and (3) what inferences can be made about public procurement fraud in terms of Cressey's Fraud Triangle and select organizational behavior approaches. This study expands the literature through its interdisciplinary nature and public sector focus.

A Brief Review of Street and White-Collar Crime Characteristics

Based on the criminal justice and sociology research discussed in Chapter 3, Table 6.1 presents the characteristics of street and white-collar criminals. These observations were largely based on private sector criminals. Additionally, the white-collar public sector crimes were not related to procurement specifically but rather encompassed crimes such as political corruption, like bribes, or embezzlement. The study of public procurement fraud presented below seeks to show where its observations converge and diverge with those of the existing criminal justice and white-collar crime research.

The following section describes how the study was conducted, followed by a discussion of the findings and how they compare with the criminal justice and white-collar crime literature. Additionally, some discussion is provided in the context of the organizational behavior frameworks presented in the previous chapter.

Table 6.1
Characteristics of street
criminals vs. white-collar
criminals

<i>Characteristics</i>	<i>Street criminals</i>	<i>White-collar criminals</i>
Socio-economic class	Lower class Impoverished Underprivileged	Middle or upper class Privileged
Educational attainment	Low No college	College-educated
Gender	Male	Male
Age	Juveniles Young adults	Middle-aged Older
Duration	Approx. 5 years (continuous)	10–14 years (Intermittent)
Race	Minorities White	White Minorities
Setting	Streets, homes, public Easily observed (clear victim)	Occupational Clandestine (unclear victim)
Background	Criminal history Repeat offenses	No/limited criminal history No repeat offenses

Table 3.2 from Chapter 3 of Smith, C. *White-Collar Crime and the Public Sector: An Interdisciplinary Approach to Public Procurement Fraud*

Research Design and Data Collection

For this study, a content analysis was conducted using articles collected from the Federal Bureau of Investigation website <https://www.fbi.gov/investigate/public-corruption/news>. This website includes information about the activities undertaken by the FBI, including investigations and news releases directly related to public corruption, the umbrella under which procurement fraud is housed. From this site, a list of articles on corruption in public procurement, contracts, and federally funded programs was compiled. These articles, gathered from Attorneys General and federal agency reports, are believed to be free of journalistic bias or sensationalism and represent a true and reliable reporting of the fact and include violations by public and elected officials at the federal, state, and local levels of government.

Aside from the perceived lack of bias in reporting, an advantage of using the FBI database is that it provides a pretty comprehensive database of searchable public procurement fraud cases. While the list of cases may not capture non-federal cases, the FBI website is one of very few publicly available databases that collects these types of cases. Other studies have also used this resource for examining financial crimes because it is consistent and well-established (Ngai et al., 2011, p. 561). As an official website of the United States government, it is accepted as a reliable and valid source of information regarding public corruption crimes.

Article Selection Process

Articles were initially selected by their titles after searching for key phrases and search terms.¹ These phrases and terms² included: “pay-to-play,” “racketeering,” “kickbacks,” “bribe/bribery,” “rigging,” “conflict

¹ A limited number of news releases/articles were selected in order to identify key search terms. A single search term was used: “contract”, which generated 67 hits. However, because of duplications (similar cases), only 53 were selected. Based on these articles, the list was further reduced to 51 articles (press releases). Two articles were not relevant to public procurement. Based on these 51 articles, search terms and key phrases were identified.

² Other terms that were often not found during the title search included: “public corruption”, “fictitious contracts”, “forfeiture of criminal proceeds”, “concealments of costs” (i.e., inflate price), “split profits” (i.e., proceeds), “securing contract renewal”, “inside informants”, and “conspired/conspiracy”.

of interests,” and “extortion.” These terms generated a list of 1,273 articles, which two coders then read to identify those that exclusively related to corruption/fraud in public procurement, contracts, and federally funded programs. Articles that included fraud but were not relevant to procurement specifically were removed from the sample. For example, corruption cases related to federal grants were not included but corruption on contracts in awarding projects related to the federal grants was included.

Once the articles were identified, they were coded according to the following procedure: articles found to be related to government contracts and corruption/fraud (i.e., pay-to-play, kickbacks, bribe/bribery, rigging, conflict of interests, or extortion”) were coded 1, and those that did not meet the parameters of the study were coded 0. When coders assigned different codes to an article, the article was coded 2 so that it could be revisited by both coders for a second decision as to whether it met the parameters of the study or not. Table 6.1 provides the number of articles selected (coded 1) and excluded (coded 0), as well as articles that required additional review from both coders (coded 2). The number of articles that both coders agreed on (whether to include in the sample or exclude from further analysis) was 1,142 (i.e., 89.7%). Coders disagreed on 71 articles (i.e., about 5.6%) and were uncertain about 60 articles (i.e., about 4.7%). Both coders revisited the 131 articles to determine their appropriateness for the study. A Cohen’s Kappa inter-coders reliability test was conducted to evaluate the reliability of coding generated by both coders. During the first stage of the analysis, 1,213 articles were examined (excluding the 60 articles about which both coders were unsure). Based on 1,213 articles, the Cohen’s Kappa test suggested a relatively high inter-coder reliability of 0.824. During the second stage of the inter-coder reliability analysis, coders re-examined the 71 articles where there were disagreements and the 60 articles the coders were uncertain about. Based on these 131 articles, the Cohen’s Kappa test suggested a reliability score of 0.548, which showed a moderate agreement between the two coders’ judgments,³ $\kappa = 0.548$, $p < 0.0005$. The left column of Table 6.2 presents the frequency of agreements and disagreements coding these 131 articles.

³ Cohen’s κ was run to determine if there was agreement between two coders’ judgment on whether 131 articles found in the FBI website should be selected. According to Altman (1999), and adapted from Landis and Koch (1977)—Cohen’s kappa captures the

Table 6.2 Article selection—first and second stages

<i>Articles selection</i>	<i>First wave Freq. (%)</i>	<i>Second Wave Freq. (%)</i>
Number of disagreements	71 (5.57)	25 (19.1)
Number of agreements	1,142 (89.71)	85 (64.9)
Number of articles excluded	922	44
Number of articles included	220	41
Number of “unsure” articles	60 (4.71)	21 (16.0)
<i>Total</i>	<i>1,273 (100)</i>	<i>131 (100)</i>

Recording Data Elements

After careful reading of the cases, 186 cases were determined to have met the parameters of the study. It is important to note that, at times, the same case was reported in multiple articles. For example, a case would appear in one article when the charges were filed, a second article when the case went to trial, and a third article once the case was decided and sentencing had taken place. Rather than count each article as a case, these three articles were represented in the study as one case. Additionally, some cases were picked up in the middle of the process, meaning they may have been charged prior to the dates of the study or during the latter dates of the study, so adjudication and sentencing data could not be collected. While data for each case from start to finish may be incomplete, the data is still meaningful because the intent of the study was to collect and examine offender-based and offense-based characteristics rather than conduct comprehensive case studies.

The timeframe for the cases in the study covered a multi-year period, with the earliest case dated April 9, 2013, and the latest case dated April 18, 2017. About 86.6% of these cases were reported by the US Attorney’s Office, while the remaining articles were reported by newspaper outlets, the FBI.gov website, and the US Department of Justice. About 53.8% of cases in the dataset plead guilty to the crime of procurement fraud, 20.4%

proportion of agreement *over and above* chance agreement. A kappa (κ) of .548 represents a moderate strength of agreement.

were serving prison time during the timeframe of the study, and 19.8% were charged or indicted.

Once the sample of articles was selected, a standard coding sheet was developed based on Smith's (2017) previously discussed four classifications of public procurement corruption: reducing competition, biased supplier selection, corrupt contract negotiation and management, and over/false payments. For the coding sheet, Smith's four categories were amended to include steering contracts and collusion/bid rigging under reducing competition; conflict of interest under biased supplier selection; and counterfeit goods under over /false payment. These extensions were made to better capture the specific types of observed public procurement fraud.

In order to record data elements that could be used to confirm or dispute the findings in other white-collar research, the coding sheet included offender-based characteristics of the perpetrator relevant to age, gender, public or private organization, tenure in their position, and elected or merit-based position. Offense-based characteristics of the crime were also captured, such as positions title as well as the industry/organization in which the fraud took place, the specific goods and/or services being procured, contract duration, contract value, and whether the procurement was related to an emergency/disaster event. Level of financial trust is inferred by the position title, as this information was not likely to be reported in the articles.

Finally, characteristics depicting the legal actions and outcomes of the cases were also recorded: fields included whether the case went to trial, the judgment in the case, the sentence handed down, the length of any prison or community service terms, and any restitution amounts. Data elements related to motivation for the crime and detection of the fraud were also sought but were rarely found in the articles; however, the method of detection was recorded for a small percent of the articles.

Results and Discussion

The coding sheets were used to draw comparisons between the offender- and offense-based observations of this study with those of street and white-collar crimes. Table 6.3 provides a snapshot of how well the public procurement fraud characteristics align with those of the previously established street and white-collar criminals. Several of the characteristics were not directly observed (educational attainment, race, and background),

Table 6.3 Comparison of street, white-collar, and procurement fraud characteristics

<i>Characteristics</i>	<i>Street criminals</i>	<i>White-collar criminals</i>	<i>Public procurement fraud criminals</i>
Socio-economic class	Lower class Impoverished Underprivileged	Middle or upper class Privileged	Middle class Not privileged Not underprivileged
Educational attainment	Low No college	College-educated	Not directly observed Moderate education Assumed ^a
Gender	Male	Male	Male
Age	Juveniles Young adults	Middle-aged Older	Middle-aged Older
Duration	Approx. 5 years (continuous)	10–14 years (intermittent)	10 or fewer years
Race	Minorities White	White Minorities	Not directly observed, no races assumed ^b
Setting	Streets, homes, public Easily observed (clear victim)	Occupational Clandestine (unclear victim)	Occupational Clandestine (unclear victim)
Background	Criminal history Repeat offenses	No/limited criminal history No repeat offenses	Not directly observed No/limited criminal history assumed ^c

^aAt least a high school education is assumed due to the professional nature of the positions; college is likely preferred but may not be required for all positions

^bPublic organizations have anti-discrimination hiring requirements, so it is assumed that all races may hold these positions but there is no evidence one race is more likely than another to commit fraud

^cMany public organizations conduct background checks, so it is assumed that these individuals holding these positions do not have a criminal history

which is a limitation of using a content analysis approach: the research is bound by what is reported with no opportunity to request specific information. Despite this constraint, meaningful conclusions can be drawn regarding how similar public procurement fraud criminals are to street and white-collar criminals in terms of status, gender, age, and tenure.

Status/Socio-Economic Class

Sutherland (1940) and other white-collar scholars posit that white-collar criminals are different from street criminals in many ways, including their socio-economic status. Based on early studies, it was commonly held that white-collar criminals were from a privileged class while street criminals were the result of poverty. However, later studies of federal white-collar criminals conducted by Wheeler et al. (1988) and Forst and Rhodes (Piquero & Benson, 2004) determined that the majority of the individuals in their samples were not privileged members of the upper classes but rather were resoundingly middle class with mid-level positions in their organizations. This study of public procurement fraud perpetrators had findings more closely associated with those of Wheeler et al. (1988) and Forst and Rhodes: using elected officials as a proxy for privileged or higher status individuals and merit-based/appointed employees to represent typical rank and file employees, the data indicate that the majority of perpetrators of public procurement fraud were not upper class but were instead of a more moderate status. Interestingly, a number of cases involved individuals from both types of status (approximately 6%), which could provide a direction for future research.

Table 6.4 shows that about 19.4% of cases involved privileged or higher status individuals (elected officials) while approximately 63% of the cases were perpetrated by members of a less privileged, moderate class (appointed/merit-based). While elected officials and appointed/merit-based employees are not perfect proxies for socio-economic status or class, elected officials are commonly perceived to be of a higher class or status than employees making up the bulk of organizational workforces. A separate distinction also could have been made for merit-based and appointed employees who had achieved job titles that imply some level of privilege, such as director and executive director, which could inform future research into the role of organizational privilege rather than privilege

Table 6.4 Perpetrator status

	<i>Freq</i>	<i>Percent</i>
Appointed/Merit-based	117	62.9
Elected officials (privileged)	36	19.4
Both—elected and appointed officials	11	5.9
<i>Total</i>	<i>164</i>	<i>100%</i>

This data element was not observed in 22 of the 186 cases

derived from social status. One final note is that, while the procurement fraud perpetrators were not found to be privileged, they were also not determined to be underprivileged, as is the general perception of street criminals.

Gender

The observations based on the sample of cases in this study align with the criminal justice and white-collar crime research regarding gender: perpetrators of public procurement fraud are more likely to be male. The criminal justice literature concludes that women are less likely to commit crimes due to societal factors as well as their underrepresentation in positions that provide sufficient access to perpetrate white-collar crimes, and the Association of Certified Fraud Examiners (2016) data shows women have consistently committed only about a third of the occupational frauds committed globally (this is attributed to the predominantly male global workforce represented in their study). Likewise, the ethics literature suggests that women are more ethical than men and, therefore, less likely to commit public procurement fraud.

As reported in Table 6.5, out of 314 individuals identified in these cases, a clear majority involved male defendants (i.e., 85.5%). In addition to supporting the previous conclusion in the criminal justice literature that most street and white-collar crimes are committed by male offenders, this finding supports the ethical conduct literature that also finds women to be generally more ethical than men. While many studies cite the traditional roles of women in society (conforming to social pressures) and the workplace (lower-level positions lacking access) as reasons women are underrepresented in white-collar crime generally, recent research shows those trends are changing and that women are now more likely to commit some types of white-collar crime, that their participation in higher level white-collar crimes has grown over the last forty years (Ndrecka, 2020).

Table 6.5 Perpetrator gender

	<i>Freq</i>	<i>Percent</i>
Male	159	85.5
Female	24	12.9
<i>Total</i>	<i>164</i>	<i>100%</i>

This data element was not observed in 3 of the 186 cases

Table 6.6 Perpetrator age

<i>Age groups</i>	<i>Freq</i>	<i>Percent</i>
32–39 years old	11	6.4
40–49 years old	53	30.9
50–59 years old	58	33.9
60–69 years old	41	23.9
70–79 years old	8	4.6
<i>Total</i>	<i>171</i>	<i>100</i>

This data element was not observed for 15 of the 186 cases

This being the case, the number of cases reporting female public procurement fraud might have been expected to be higher; however, the findings indicate that women are not committing a greater share of the public procurement frauds than they were previously, perhaps because of the influences of public service motivation and ethical conduct principles.

Age

Perpetrator age was expected to conform with the public sector ethical conduct and public service motivation literature that suggests older employees are less likely to commit ethical breaches, that there is a positive correlation between age and ethical behavior. However, the results of this study in Table 6.6 clearly align with the white-collar crime findings that white-collar crimes are more likely to be committed by older individuals. Piquero and Benson (2004) reported on the average ages of the criminals in multiple white-collar criminal studies, which showed that the average age of onset across studies was mid-30 s to 40 years old. These results are supported by this study in terms of the younger end of the range, but the largest group of offenders were 50 or older. One caveat is that many of the white-collar private sector studies distinguished between age at first offense versus age at first white-collar offense. This level of detail was not readily available in the articles used in this study, but the finding regarding age is still meaningful and demonstrates that public procurement fraud perpetrators look more like typical white-collar criminals than street criminals, with an average age of roughly 53.

Tenure

With regard to duration in position, the cases revealed that the tenure of perpetrators ranged from 1 to 24 years and that the largest number of

Table 6.7 Perpetrator tenure

<i>Tenure</i>	<i>Freq</i>	<i>Percent</i>
1–3 years	8	21.6
4–6 years	14	37.8
7–10 years	9	24.3
11–15 years	4	10.8
16+ years	2	5.4
<i>Total</i>	<i>171</i>	<i>100</i>

frauds were committed by those with 10 or fewer years of service. The results are inconclusive: the ranges in Table 6.7 indicate that employees with shorter tenures are as likely to commit fraud as those with 4 or more years of service and more likely than employees with 10 or more years of service.

These findings conflict with those of the white-collar crime literature that suggests length in service is required to achieve the type of position that provides access (Felson, 2002) or financial trust (Cressey, 1950). Likewise, this finding is in contrast with the ethical conduct literature that suggests longer tenures can cause diminished public service motivation, which has been found to negatively impact moral reasoning (Elm & Nichols, 1993; Maesschalck, van der Wal, and Huberts, 2008). Similarly, the Association of Certified Fraud Examiners data has repeatedly shown longer tenures are positively associated with fraud (ACFE, 2022). One possibility for this counterintuitive finding could be that procurement positions immediately provide specialized access and financial trust by virtue of the work they entail. Further research into the shorter tenures of public procurement fraud perpetrators is clearly warranted.

In summary, there is evidence that public procurement fraud perpetrators behave like other white-collar criminals in terms of gender and age. Conversely, they have been observed to look more like street or blue-collar criminals in terms of tenure and lack of privileged status. Offense-based characteristics related to specialized access and positions of financial trust could not be directly observed and continue to represent opportunities for further research. Additionally, inferences about motivation could not be made based on the matter-of-fact content of the articles used in this study.

Other Findings of Note

While the intent of this study was to provide bases of comparison for public procurement fraud offender- and offense-based characteristics with private sector white-collar characteristics, the data revealed other findings of interest that contribute to the public procurement fraud literature. The following discussion touches on some highlights from the data, including how often Smith's four common types of procurement fraud were observed, who was more likely to commit them, at which level of government they were more often committed, and how the crimes were detected. While data elements related to adjudication and sentencing were collected for all of the cases, they are not of primary interest and are not reported here.

Most Common Types of Fraud

The frequency of procurement frauds observed in this study is summarized in Table 6.8. About 74.7% of cases in the dataset involved eliminating or reducing competition and steering of contracts in particular. About 18.8% of cases involved over/false payments and 17.2% involved bias vendor selection. Very few of these cases involved corruption in contract negotiation and management (i.e., 3.2%), which was not unexpected. The contract negotiation phase is generally perceived to have fewer vulnerabilities than other phases. Understanding which types of exploitation are more common can inform the development and/or enhancement of prevention and detection mechanisms in those specific areas.

Table 6.8 Prevalence of fraud by type

<i>Types of procurement fraud</i>	<i>Freq</i>	<i>Percent</i>
Eliminating/Reducing Competition , i.e., single bidder, contract extension, specification bias, discouraging competition, steering contracts, collusion/bid rigging	139/186	74.7
Bias Vendor Selection , i.e., inside information, evaluation design bias, scoring bias, conflict of interest	32/186	17.2
Corrupt Contract Negotiation/Management , i.e., noncompetitive terms and conditions, Contract changes, contract extensions	6/186	3.2
Over/false Payments , i.e., over-billing, over-charging, over-buying, false invoices, payment diversion, counterfeit goods	35/186	18.8

Table 6.9 Types of fraud and elected vs. appointed and merit-based officials

	<i>Appointed merit-based only</i>	<i>Elected/both</i>	<i>Chi²</i>	<i>P-value</i>
Eliminating/reducing competition ^a	85 (72.6%)	36 (76.6%)		
Other type of frauds	32 (27.4%)	11 (23.4%)	0.270	0.603
Over/false payments ^b	26 (22.2%)	3 (6.4%)		
Other type of frauds	91 (77.8%)	44 (93.6%)	5.779	0.016
Bias vendor selection ^c	19 (16.2%)	11 (23.4%)		
Other type of frauds	98 (83.8%)	36 (76.6%)	1.152	0.283

^aThis includes single bidder, contract extension, specification bias, discouraging competition, steering contracts, collusion/bid rigging

^bThis includes over-billing, over-charging, over-buying, false invoices, payment diversion, counterfeit goods

^cThis includes noncompetitive terms/conditions, contract changes, contract extensions

Elected vs. Appointed/Merit-Based Employees

Table 6.9 presents the results evaluating fraud committed by merit-based and appointed individuals versus elected individuals. The elected individuals variable was used in the previous discussion as a proxy for privilege; however it is more meaningful in this discussion to show distinctions in fraud prevalence between elected and non-elected perpetrators. Elected officials are often implicated in public sector corruption studies, particularly related to bribery, election fraud, and financial crimes. They have not previously been included in examinations of public procurement fraud, though, as the data revealed, they have been found to exploit the procurement process. The findings suggest that while elected officials have been observed to commit public procurement fraud, they are considerably less likely to do so than merit-based and appointed organizational employees. Based on the collected data, an association was not found between either elected and merit-based/appointed officials involving in (a) eliminating/reducing competition or (b) bias vendor selection. However, an association was found between elected/non-elected public servants and over/false payment of contractual agreement (i.e., $\text{Chi}^2(1) = 5.779$; $p = 0.016$). This is an interesting finding that warrants further study.

Level of Government

The next finding of interest is the level of governments in which the frauds were found to occur. Table 6.10 shows that the majority of reported

Table 6.10
Procurement fraud cases
by level of government

<i>Level of government</i>	<i>Freq</i>	<i>Percent</i>
Municipal	65	34.9
County	21	11.3
Special District	20	10.8
State Agency	24	12.9
Federal Agency	45	24.2
International Govt	5	2.7
Others—US Territory	6	3.2
<i>Total</i>	<i>186</i>	<i>100</i>

fraud cases were committed at the municipal level (34.9%) followed by the federal level (24.2%). Cases committed at the local level (municipal, county, and special district) totaled 106 cases and represent more than half of the cases (56.9%) in the sample. A couple of explanations can be offered to explain why this may be the case. Firstly, local governments may have fewer controls in place to prevent fraud due to lack of resources or lack of training. Secondly, procurement in general is not widely considered to be a profession and does not usually require certification. Therefore, there may not be any ethical guidelines for conduct. Thirdly, the federal government is where the bulk of the money is, spending billions of dollars annually procuring goods and services; it is a natural target for procurement fraud. Finally, the volume of procurements at the federal level is staggering, meaning it may be easier for anomalies related to fraud to go undetected.

The Importance of Whistleblowing

The final observation from the data to be presented is how the crime was detected. As stated in earlier chapters, white-collar crimes are clandestine in nature, making them very difficult to detect and equally difficult to study. The secretive nature of these crimes makes it impossible to ascertain how big of a problem public procurement fraud is, and improved methods of detection are of prime interest. Presented in Table 6.11, approximately 88% of the cases in this study did not report how the crime was detected, which was very disappointing given that detection is a critical component of preventing procurement and other white-collar crimes. Despite the low reporting of this data element, 22 cases identified a source of detection,

Table 6.11 Method of fraud detection

<i>Method of detection</i>	<i>Freq</i>	<i>Percent</i>
Vendor reported fraud	2	9.1
Whistleblower tips	20	90.9
<i>Total</i>	<i>22</i>	<i>100%</i>

revealing that the most common source of detection was from whistleblowers. This was not unexpected and will be discussed in more detail in the following chapter on detection and prevention.

Final Remarks About the Study

While this study has been informative in several ways discussed above, there were some limitations. The first limitation was inherent in using content analysis instead of another approach; this approach limits the types of data that can be collected to only that which is reported in the article. Despite this challenge, the content analysis was a sound approach to this topic for a couple of reasons. Firstly, there are few available databases that collect public procurement fraud data. Secondly, surveys and interviews related to criminal acts can suffer from socially desirable response bias as well as unwillingness by those surveyed or interviewed to admit to or speak honestly about their crime. Surveys also suffer from low response rates, so a content analysis based on a government website for collecting data on public sector crimes was deemed appropriate while acknowledging that not all of the desired data elements were likely to be consistently observable. Data elements of interest, such as position in organization and method of fraud detection, were expected to be observed more often than they were, but the data elements that were regularly observed were sufficient for providing insights into multiple facets of public procurement fraud.

Another limitation of content analysis pertains particularly to attempts to capture motive, both in terms of intrinsic and extrinsic, as discussed in the organizational behavior frameworks from Chapter 5, and Cressey's (1953) conception of motivation in his Fraud Triangle. It is still believed that Cressey's Fraud Triangle is suitable for examining public procurement fraud; however, inferences could not be made about any of his three elements. Likewise, observations and inferences could not be made about the roles of public service motivation, stewardship theory, or workplace deviance. Public service motivation and stewardship theory are believed to

explain non-criminal behavior and the general trustworthiness of public procurement officers, but public service motivation in particular is very difficult to measure. On a related note, it is difficult to conclusively state why a crime was not committed without a qualitative component; even with a qualitative component, bias must always be considered and mitigated.

Despite the limitations described here, the study expands the current knowledge of public procurement fraud and provides points of comparison between public procurement fraud and other white-collar crimes. The next chapter will explain some of the current methods and challenges of detecting and preventing public procurement fraud. One of the goals of this study is to use evidence of where and how the crimes are committed to aid in the development of more effective remedies.

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Detecting and Preventing Public Procurement Fraud

Pay and Chase: The Challenges of Detecting and Preventing Public Procurement Fraud

Abstract Procurement fraud is a covert crime. Like most white-collar crimes, it is usually not observable, and victims often don't realize they've been harmed until much later if at all. Because of the secretive nature of these crimes, they are difficult to detect; because they are difficult to detect, they are difficult to prevent. This chapter provides a brief discussion of current detection and prevention tools and challenges, followed by suggestions for enhancing these tools and developing new ones.

Keyword Fraud detection · Fraud prevention · Whistleblowers · Business intelligence and analytics · Certification

CURRENT STATE OF DETECTION

Of all government activities, procurement is perhaps the most vulnerable to fraud, waste, and abuse (Hunsaker, 2009; Thai, 2001; Thai & Grimm, 2000). The United States government is the largest purchaser of goods and services in the world, where an estimated \$3.5 trillion is lost annually due to fraud, waste, and abuse (ACFE, n.d.; Griffin, 2012). Despite effective tools for identifying fraud, it is typically not detected until after the crime has occurred and the harm has been inflicted. Denoted as “pay and

chase” (Hughes, 2011, p. 58), this existing condition is not conducive to successfully preventing or detecting public procurement fraud.

Internal Controls

Public and private organizations use internal controls to detect anomalies, which could be simple errors or could be intentional and illegal activities. Internal controls are recommended in both detecting and preventing public procurement fraud, as consistent and reliable fraud detection could in itself be the most effective form of fraud prevention. Common fraud detection tools provided by the Government Accounting Office address vulnerabilities in each stage of the procurement process (GAO, 2001) and include having people outside the procurement process review and/or approve specifications to ensure a competitive process; informational controls of communications to ensure collusion between a procurement officer and vendors is not taking place; dividing bid scoring along the cost and technical lines so that the technical evaluation (how well the good or service meets the stated needs of the organization) cannot become biased by the cost information; and avoiding conflicts of interest by establishing a system of checks and balances (Eger & Smith, 2021).

These internal controls become a system of oversight, which has obvious benefits but may be difficult or costly to implement. At the federal level, there are more resources for agencies to implement most or all of the aforementioned recommendations; however, at the local government level, small cities and counties may have a procurement office of one person with little or no supervision. This may be one reason that the study from the previous chapter found that the majority of public procurement fraud cases (34.9%) took place at the municipal level. The second highest number (24.2%) took place at the federal level, indicating that either few internal controls are in place or that they are not always effective for detecting or preventing fraud. According to the 2016 ACFE Report to the Nations, half of the study respondents attributed the fraud to a lack of internal controls or internal controls that had been manipulated or overridden by the offender (ACFE, 2016).

Audits

One of the most common methods of anomaly detection is audits, where the procurement activities are reviewed by an internal or external

auditor. Anomalies identified by audits could be simple mistakes, implying training may be needed for compliance issues, or they may identify illegal activity. According to the 2006 Association of Certified Fraud Examiners Report to the Nations, 20% of occupational frauds were initially detected by internal audits and 12% were discovered by external audits. This finding related to external audits is concerning, as external audits are a commonly observed detection and prevention mechanism, yet they are less effective than any other source in the report. Internal controls detected 19% of the occupational frauds, with the largest source of fraud detection coming from tips (34%). Of these tips, almost two-thirds (64%) were from employees (ACFE, 2006). Because the Report to the Nations includes private and public sector occupational crime across the globe, the government-specific data is slightly different but still demonstrates a high reliance on tips (40%), internal audits (21%), and internal controls (20%).

The Report to the Nations (ACFE, 2006) data support the use of audits and internal controls for detecting occupational corruption like public procurement fraud, but the data also demonstrate the limited usefulness of internal and external audits and internal controls. The 2016 Report to the Nations suggests that kickbacks, steering contracts, and bid rigging are not always successfully identified by audits and internal controls because procurement documents can be created or altered to hide anomalies or breaches of process (ACFE, 2016). Additionally, internal and external audits perpetuate the “pay and chase” problem (Hughes, 2011), where the crime is not detected until losses have already been incurred.

Whistleblowing

As reported above, tips were shown to be most effective for detecting occupational fraud, both in the government-specific data (40%) and in the aggregated data (34%). Tips were consistently the largest source of fraud detection across ACFE reports (ACFE, 2006; ACFE, 2016; ACFE, 2022), as well as in a comparative white-collar crime study. In research of white-collar criminals in Norway, Gottschalk and Smith (2016) found that whistleblowers, or individuals who attempt to correct wrongdoing within an organization by reporting it to someone in a position of authority or to the public (Atwater, 2006), led to the detection of the crimes in almost half of the approximately four hundred cases. Additionally, the study broke out public procurement fraud specifically and found that

almost half of those cases also originated from tips from whistleblowers. The research presented in the previous chapter also found whistleblowers to be the source of fraud detection in approximately 91% of the cases that provided detection information.

The characteristics of whistleblowers have also been examined because of their critical role in uncovering organizational corruption and fraud. Studies of public sector whistleblowers have revealed that federal whistleblowers were shown to have higher levels of public service motivation and were high performers with greater levels of job commitment, achievement, and satisfaction (Rainey, 2014; Vadera et al., 2009). Vadera et al. (2009) also found whistleblowing to be more prevalent in the public sector, which could be viewed as lending support to the presence of public service motivation among public sector workers and ethical conduct. Additionally, blowing the whistle could fall under workplace deviance according to a constructive interpretation, such as principled dissent. Workers frustrated by unfair practices or organizational wrongdoing may feel a civic responsibility to bring the misconduct to light so that it will be corrected; while the reporting of misconduct is generally viewed as “the right thing” to do (Atwater, 2006), this dissent may be viewed as deviant behavior, leading to retaliation by the organization.

Retaliation, as defined by the United States Department of Labor, “occurs when an employer (through a manager, supervisor, or administrator) fires an employee or takes any other type of adverse action against an employee for engaging in protected activity” (whistleblowers.gov, n.d.). Though whistleblowing has been shown to be critical in uncovering fraud and corruption, there are often many risks and few incentives for individuals to report organizational wrongdoing. Zipparo (1999) concluded that the absence of sufficient legal protection is a material reason why public officials might not report misconduct, and retaliation is a very real consequence of whistleblowing. Atwater (2006) describes two cases in Florida where public procurement officers were retaliated against for reporting cases of inappropriate behavior in their respective procurement processes. In one case, the individual was fired and black-listed for reporting inconsistencies in a solicitation, and the other was retaliated against in terms of excessive busy work in response to his reporting of a conflict of interest that ultimately resulted in an indictment for embezzlement. Neither of these individuals regret their choice to report the procurement fraud, though they do believe there should be better protections in place for whistleblowers.

The federal government passed the Whistleblower Protection Act in 1989, which covers federal employees (US DOL, OSHA, n.d.), and many states have likewise adopted varying levels of protection for whistleblowers. According to the National Whistleblower Center, some states have protections for public and private workers while others only cover states, and there is no consistent definition for protected disclosure or standard requirements for filing a report (NWC, n.d.). Employees in the already difficult position of deciding whether to report misconduct have the added responsibility of determining what kinds of protections from retaliation are available to them by their state; in many cases, the protections may be unclear or insufficient, so the fraud goes unreported and the financial and social losses continue to accrue.

SUGGESTIONS FOR IMPROVING DETECTION

Internal Controls

Internal control processes are effective in detecting fraud; however, they can be improved upon. As discussed previously, many organizations will not implement internal control processes because of a lack of resources, both in terms of funding and personnel. Small offices may not have the ability to hire outside examiners to oversee processes, and they may not have sufficient personnel to divide responsibilities within the office. Even an office of one or two people, however, can take measures to protect the integrity of their procurement process. They can implement checks and balances among the available personnel in different but related offices, such as requiring two signatures rather than one on contracts, and they can establish strict guidelines for p-card (purchasing card) transactions. Abuse related to p-card use can be addressed by limiting the number of authorized users (Smith, 2014) and reducing the spending limits.

Another source of control can come from using e-procurement systems, defined by Reddick (2004) as web-based technology that facilitates organizational acquisition of goods and services. Costs, both social, such as reduced access by small and minority vendors (MacManus, 2002; Reddick, 2004), and economic, like training, operations, and maintenance (Moon, 2005) associated with using an e-procurement system must be weighed against their perceived benefits, which include enhanced compliance and a broader range of vendors (Smith, 2014). A final internal control improvement is the establishment of a protocol for fully

researching the ownership of any businesses who submit bids to determine whether there are any conflicts of interest—this is precisely how one of the crimes in Atwater’s (2006) article was uncovered by a procurement officer. Many of the suggestions above carry minimal costs, are appropriate for large or small procurement offices, and should help detect as well as deter procurement fraud.

Audits

Like internal controls, audits are effective tools for detecting public procurement fraud and other white-collar crimes. As noted previously, internal and external audits were responsible for uncovering about a third of the corruption cases in the 2006 ACFE Report to the Nations, though they dropped to about 20% of the cases in the 2016 and 2020 Reports (ACFE, 2016, 2020). Audits are widely required by public organizations, but the processes can be manipulated because the audits generally follow a schedule, allowing time for the creation or alteration of fraudulent documents. This could be one reason the percent of cases reported by the Association of Certified Fraud Examiners has trended down. To improve the efficacy of audits, surprise audits are encouraged. According to the ACFE 2006 Report to the Nations, surprise audits are not widely utilized (fewer than 30% of organizations reported using them), but the losses incurred by the organizations that used surprise audits were substantially lower with shorter durations (ACFE, 2006).

In addition to introducing surprise audits, organizations can also seek out professional resources for enhancing their existing processes. Professional organizations like the Association of Certified Fraud Examiners, the Institute of Internal Auditors Research Foundation, the National Association of State Procurement Officers, and NIGP, the Institute for Public Procurement, conduct trainings, publish research, and provide ethical guidance related to public procurement activities, including audit functions. For example, O’Regan (2008) through the Institute of Internal Auditors Research Foundation, published a handbook of tips when auditing the procurement function. In the handbook, he describes fundamentals of the procurement process as well as the risks and vulnerabilities inherent in the procuring of goods and services. He offers solutions for mitigating these risks throughout the procurement process through the use of sound audit procedures and internal controls.

Whistleblowing

Clearly, tips from whistleblowers are important to both the public and private sectors for uncovering occupational fraud. The ACFE Reports indicated that tips were responsible for fraud detection in 34% of cases in 2006, 39% in 2016, and 43% in 2020 (ACFE, 2006, 2016, 2020). As previously noted, however, there are risks associated with whistleblowing and many individuals may choose not to report organizational misconduct for fear of retaliation. While many employees will opt to report the misbehavior in person (a third of tips in the 2020 Report to the Nations were reported in person, most often to the individual's direct supervisor), tips can be increased by offering additional, anonymous types of reporting methods (ACFE, 2020). Telephone hotlines and online, web-based forms have been implemented to great success in many workplaces to facilitate anonymous reporting (ACFE, 2016). In addition to protecting the identity of the reporting individual (usually an employee though sometimes from someone outside of the organization), organizations implementing multiple reporting mechanisms were found to detect fraud earlier, reducing losses compared to those who did not.

Hotlines in particular have been shown to have a positive impact on detection: according to the 2020 ACFE Report to the Nations, organizations with hotlines had median losses that were only about half of what organizations without hotline suffered (ACFE, 2020). Another tool for increasing the reporting of tips is fraud awareness training, where organizations with fraud training received about 20% more tips than those without training. Despite the effectiveness of hotlines and fraud training, the majority of organizations do not employ both or either. Adopting one or both of these reporting mechanisms could greatly enhance fraud detection, as could the extension of qui tam benefits to public employees.

Qui tam provisions fall under the False Claims Act (31 U.S.C. §§ 3729–3733), a law passed by President Lincoln in 1863 due to rampant fraud in military contracts during the Civil War (Lahman, 2005). These provisions allow a private individual with evidence of fraud in federal contracts to file a suit on the government's behalf (UD DOJ, n.d.). Private individuals reporting fraud in government contracting can receive a financial reward based on recovered damages, and the qui tam is the best opportunity for case generation (Broderick, 2007; Caminker, 1989). Although the use of qui tam protections and rewards have been very effective for reporting fraud in government contracting, current government

employees are generally prevented, due to statutory public disclosure requirements, from filing a suit under the False Claims Act or receiving any financial reward for reporting the fraud. Because the False Claims Act has proven to be a very effective antifraud law (NWC, n.d.), it seems reasonable to assume that even more claims of government fraud would be reported if government employees were eligible to file under the Act and benefit from successful cases originating from their information.

Business Intelligence and Analytics

Internal controls, audits (internal and external), and whistleblowing are all effective for discovering innocent anomalies as well as those of a more nefarious nature. However, given that each of these mechanisms is reactive, only discovering fraud after the crime has been committed, additional and proactive mechanisms of detection are needed. To this end, organizations are beginning to harness the power of “big data” by implementing business intelligence and analytics programs (Beyer, 2011). Admittedly, these types of solutions may not be advisable for organizations with a small number of routine procurements and, therefore, small amounts of data; however, business intelligence analytics can be very effective in detecting anomalies in large organizations or those that generate sizable amounts of data through high volumes of procurements, such as state governments and federal agencies.

Business intelligence and analytics programs allow organizations with large amounts of data to assess how well current processes are working and identify areas that need attention (business intelligence) as well as use historical data to make predictions and show causal relationships. For the purposes of identifying anomalies for predictive and prevention purposes, a combination of both business intelligence and analytics may produce the most useful insights for proactively identifying potentially fraudulent activity. Perceived benefits of implementing a business intelligence and analytics solution include increased case generation, proactive prevention of fraudulent activities through anomaly detection, and a broad range of tools that can reduce organizational redundancies and costs (Eger & Smith, 2021). In their qualitative study of business intelligence and analytics in the Department of the Navy, Eger and Smith (2021) found that the features most desired by fraud investigators and fraud auditing stakeholders were case generation based on the program’s data analysis and would not duplicate other efforts; identification of anomalies related

to the procurement in terms of compliance with procedures; and detection of patterns related to fraudulent behavior, such as conflicts of interest between a procurement officer and a vendor or vendors. The statistical analysis would generate discrete leads that would provide proactive opportunities for preventing fraud.

Despite the potential benefits of business intelligence and analytics programs, an organization would need to determine whether they generate enough data to maximize the benefits of such a system, and training as well as safeguards would be required to realize the full advantages. Additionally, even though these programs have the potential for both detecting and preventing fraud, the 2020 ACFE Report to the Nations indicated only about 38% of organizations in their study utilized proactive data monitoring and/or analysis.

PREVENTION

Many of the detection methods discussed above also have prevention components. As previously stated, the best method of prevention may be consistent and reliable sources of detection. The following discussion will speak to the prevention mechanisms related to some of the detection methods, but it will also address prevention benefits related to professionalism and certification as well as prosecution of occupational fraud perpetrators.

Audits and Employee Training

Audits have been discussed previously in terms of their critical role in detecting fraud once it has already been committed. While audits are effective and important sources, they are not considered proactive in most regards. The use of surprise audits, however, may be effective in preventing fraud as well as detecting misconduct. If an organization is successful at conducting random and spontaneous surprise audits, potential fraud perpetrators may determine that the risks outweigh the benefits of committing the fraudulent act. Despite the preventative benefits of utilizing surprise audits, the ACFE Report to the Nations from 2020 determined that only about 40% of organizations in their study conducted random and spontaneous audits (ACFE, 2020).

Fraud awareness and ethics training are also prescribed for preventing occupational fraud by helping employees identify misconduct, explaining

the importance of remaining vigilant, and providing reporting guidelines when fraud is suspected or observed. There is evidence that training increases tip reporting: the 2020 ACFE Report to the Nations demonstrated a 20% increase in tips via reporting mechanisms where training was part of the organization's prevention strategy. Though these trainings have been shown to increase employee reporting rates, they were not widely observed (ACFE, 2020). Certification and membership in professional associations may provide the ethical training that many organizations do not.

Professionalism and Certification

Public procurement is commonly regarded as a profession, indicating an ethical standard of behavior is expected in the provision of procurement duties. To this end, the American Bar Association established the 2000 Model Procurement Code for State and Local Governments (Hunsaker, 2009; Thai, 2001), which provides an ethical guide for procurement activities. Engaging in training, seeking out educational programs, and maintaining memberships in professional organizations like the Institute for Public Procurement (NIGP) and the National Association for State Procurement Officers all reinforce the professional and ethical standards for public procurement officers (Hunsaker, 2009). Transparency International (2014), an international corruption watchdog organization, makes some fundamental recommendations for minimizing opportunities for fraud in the procurement process: display behavior that complies with and reinforces organizational standards; be transparent in communication of rules, processes, and actions; demonstrate impartiality in awarding contracts, and encourage professionalism through training of public procurement officials. One effective method for training public procurement officers is through certification.

Certification is believed to reinforce ethical standards of conduct and professionalism. There are numerous certifications available through the multiple national associations for procurement officials and, while there can be a great deal of variation in the unique certifications, it is generally desirable. Certification may even encourage whistleblowing, despite its risks. For example, both of the whistleblowers in the Atwater (2006) case cited above held multiple certifications, including Florida Certified Purchasing Manager and Florida Certified Purchasing Agent. Public service motivation may explain their behavior to some degree, but it is

also believed that their professional certifications also contributed to the personal moral compass that required them to report the misconduct. Further research is needed to illustrate the influence certification has on ethical conduct and whistleblowing, but certification does imply a level of professionalism, which in turn suggests an ethical code of conduct. Despite the perceived benefits of certification, certification is not a standard requirement across levels of government for public procurement officers.

Prosecution

White-collar criminals have not historically been prosecuted or punished to the same degree as street criminals (Sutherland, 1940). This finding from the criminal justice and sociology literature holds up when looking at occupational crime overall: fewer than a third of cases in the 2020 ACFE Report to the Nations resulted in civil litigation (ACFE, 2020). The most reported reason for not prosecuting was fear of bad publicity. While this may be a common concern for private organizations, public organizations may be more likely to seek justice because of the negative consequences of not reporting it. Out of 119 cases of occupational fraud reported in government and public administration organizations, almost 80% were prosecuted (ACFE, 2006). In the study presented in the previous chapter, the cases were collected from an FBI website where all of the articles were based on criminal investigations. No comparison can be made of how many fraudulent acts were or were not reported, but elements related to the sentencing outcomes were recorded and indicated that convicted fraud perpetrators often received a prison sentence and restitution requirements as well as supervised release. There is some evidence that public organizations are inclined to prosecute more often than private organizations and were successful in their prosecutions.

This chapter has taken a practitioner view in describing the current detection and prevention methods and suggesting enhancements to these tools. The best approach is to use a combination of reactive and proactive mechanisms to uncover misconduct and deter future criminal behavior. Future research is needed on the adoption and efficacy of business intelligence and analytic programs, and additional research regarding recidivism of perpetrators of public procurement fraud could provide additional insights as to how effective current penalties are in deterring future crimes. The final chapter provides some concluding thoughts as well as directions for future research.

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Conclusion and Directions for Future Research

Solving a Universal Problem

Abstract Corruption is a global phenomenon. Every country has some level of corruption, and Transparency International ranks countries according to how corrupt they are perceived to be compared with others. In their 2021 Corruption Perception Index (CPI), which ranks countries from 0 (very corrupt) to 100 (very clean/not corrupt), the United States appears to be losing ground. The most recent rank of 67 is down from 69 in the 2019 Index, 71 in the 2018 Index, and 75 in the 2017 Index. This downward trend is alarming: the United States is perceived to be growing more corrupt, albeit slightly. The view that the United States is even moderately corrupt should be unacceptable, as it shades political and financial interactions both domestically and abroad. These rankings lend support to the view that public procurement activities are also corrupt, a claim that is little supported yet widely held.

Keyword Future research directions · Need for data/databases on public procurement fraud · Global issue · Implications for certification

No government is immune to corrupt purchasing practices, as suggested by the Organization for Economic Co-operation and Development (OECD). They estimate approximately 20–25% of government procurement budgets across the globe are lost to fraud. Considering that

governments worldwide spend over \$ 9.5 trillion on procuring goods and services (OECD, 2015), corrupt purchasing practices are causing immeasurable harm. To address public corruption and public procurement fraud in the United States, various actions have been taken at multiple levels of government with mixed success: President Bush enacted the National Procurement Fraud Task Force in 2006; President Obama implemented the Interagency Financial Fraud Enforcement Task Force in 2009; and individual states have taken action as well. For example, Connecticut has partnered with federal agencies to identify and investigate corrupt, criminal activity by public officials and the misuse of public funds.

Despite these and other efforts to address corruption, procurement fraud in the public sector still causes sizable losses with little research to indicate how prevalent procurement fraud is or how to address it. One reason for this lack of resolution could be the number of competing priorities in the field of public procurement. For example, domestic and international attention is divided among providing historically underrepresented groups, such as female and minority-owned businesses, better access to government contracts; promoting green (sustainable) procurement practices; expanding purchasing consortia and e-procurement technology; and, finally, increasing transparency and reducing fraud. All of these areas are important for improving public procurement, but the focus is too diffuse to effectively resolve the issue of public procurement fraud.

DIRECTIONS FOR FUTURE RESEARCH

Available data has been a limitation to meaningful research into public procurement fraud. While there have been efforts to expand access to public procurement data through organizations such as Government Transparency Institute (n.d.), these reports and datasets do not capture many of the details of interest related to the types of procurement fraud, characteristics of the perpetrators, or qualitative aspects such as perpetrator motivation or background. The lack of available data is one of the main reasons a content analysis was conducted for the study in this book, but it is clear that quantitative measures alone are not sufficient for explaining the individual's behavior, only the crime.

One piece of data that is more readily available is the cost of procurement fraud. The Association of Certified Fraud Examiners, Transparency International, and the Organization for Economic Co-operation and

Development, among others, have all calculated losses due to procurement fraud. While this is important information for demonstrating the size and scope of the problem, the amounts are essentially a best guess. A defining characteristic of white-collar crimes is that they are clandestine, making them difficult to detect, prevent, or measure; the reported financial costs only reflect the frauds that have been discovered. Moreover, the social costs are more difficult to quantify; it is widely believed that fraud diminishes trust in government, but there's little insight into what the repercussions look like. What is the effect of this diminished trust? Research into the ramifications of weakened trust would add perspective to the true and total costs of public procurement fraud.

Future research is needed because the current data is limited and does not paint a full picture. Studies need to focus not only on the quantifiable reports from victim organizations, as in the Reports to the Nations published by the Association of Certified Fraud Examiners, but on the qualitative half of the equation as well; similar to the white-collar criminal studies by Wheeler et al. and Forst and Rhodes in the 1980s, the perpetrators must be included in future public procurement fraud studies. While data regarding the types of frauds and how they are committed is critical for detecting fraud, understanding the motivations of the perpetrators is likely more informative for preventing fraud. Gathering qualitative data from the people who committed the acts can assist with the application of Cressey's Fraud Triangle to public procurement fraud, which can provide insights for risk assessment and prevention, as well as shed light on the influence of public service motivation.

Another direction for future research revolves around whistleblowing. The study from this book as well as evidence from the Reports to the Nation and various other studies all speak to the absolute necessity of whistleblowers in uncovering fraud. Research into how to encourage more whistleblowing as well as standardize and enhance whistleblower protections is needed. Additionally, future studies should explore the benefits of extending *qui tam* provisions to government employees. Without new strategies for encouraging and protecting whistleblowers, misconduct will continue to go unreported because of the risks of doing the right thing. Standardizing certification and requirements for certification could also result in increased whistleblowing because of the ethical component, and the impact of certification on public procurement fraud could also be another fruitful future direction of procurement research.

CONCLUDING REMARKS

This book has attempted to shed light on an important economic and social problem that impacts every level of government and, therefore, every citizen, even if it's in a seemingly indirect way. However, money lost to procurement fraud is money lost to social programs, libraries, health centers, and vital public services that are not so indirect to the individuals who rely on them. While the majority of public procurement professionals display integrity in the service of their duties, some will exploit the vulnerabilities that have been discussed herein. Because procurement fraud exists, there is a need to study it. This book seeks to contribute to the current knowledge by securing a place for public procurement fraud within the white-collar crime literature.

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