



Second Intersessional Meeting of the Open-ended Intergovernmental Working Group on Prevention

UNCITRAL Model Law on Public Procurement and Preventive Measures under UNCAC

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UNCITRAL Model Law and Preventive Measures under UNCAC

UNCITRAL Model Law on Public Procurement (2011)

- Template for national procurement legislation
- Implements UNCAC requirements
- Reflects best procurement practice
- Promotes value for money and avoidance of abuse
 - Through transparency, participation and competition and objectivity (fair treatment)

UNCITRAL Model Law and Preventive Measures under UNCAC

Preventive measures under UNCAC relevant to procurement

- Anti-corruption bodies (art 6)
- Codes of conduct (art 8)
- Procurement measures (art 9)
- Management of public finances (art 9)
- Transparency in public administration (art 10)

UNCITRAL Model Law and Preventive Measures under UNCAC

UNCAC procurement *system* requirements (article 9):

- transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption

UNCITRAL Model Law and Preventive Measures under UNCAC

Transparency (art 9(1)(a)) - UNCITRAL requirements:

- Publish all the 'rules of the game' in advance
 - Law, regulations, guidance
 - Advertisements
 - Evaluation criteria and award procedures
- Keep a procurement record
- Publish results
- Public decisions on challenges

e-procurement has a vital role in transparency in public administration (article 10)

Fraud and corruption in public procurement

Objectivity (art 9(1)(b)(c)) - UNCITRAL requirements:

- Specifications without trade names
- Relevant qualification criteria
- Relevant evaluation criteria
- Exclusion only on basis of these criteria
- Pre-publication to ensure objective application of these standards

Fraud and corruption in public procurement

UNCITRAL requirements for challenge mechanism (UNCAC art 9(1)(d)):

- All steps in process can be challenged
- By any potential supplier
- Optional peer review mechanism
- Independent administrative review mechanism
- Court procedures
 - Supported by “standstill” provisions
 - Record-keeping requirements
 - Default rule: public hearings

Fraud and corruption in public procurement

Other relevant UNCITRAL provisions:

- Mandatory code of conduct (art 9(1)(e))
- Sanctions for bribery, etc
- Competition: open tendering unless another approach justified
 - **More participants = harder to collude and hide collusion**
 - **Value for money and efficiency – support PFM (art 9)**

Fraud and corruption in public procurement

UNCITRAL activities to support legal reform

- Technical assistance: implementation and training:
 - To individual governments
 - Training and production of other materials
 - Programmes/partnership with multilateral development banks, other IGOs and international NGOs – eg UNODC, EBRD, World Bank, ADB, IADB

Fraud and corruption in public procurement

THANK YOU

**Details of UNCITRAL's work on
procurement**

www.uncitral.org