

**FIDIC Annual Conference 2004**  
**Copenhagen, Denmark**



## Cases and dilemmas

**Seminar on Business Integrity**  
**Thursday, 16 September 2004**



## Case 1, Services included in a proposal

### Scenario 1:

In the proposal on a project financed by a development bank, it is stated that the client will get three paid trips to CE's headquarters and the project will provide the client with five PCs including Internet access. The Terms of Reference do not explicitly mention travel and PCs.

Question: ***Is it acceptable to have these statements in the proposal?***

### Scenario 2:

After the job is completed the PCs are left with the persons who worked with the PCs on the execution of the project.

Question: ***Is it acceptable just to leave the PCs with these persons?***

## Case 2, Suspicion that the contractor is bribing the client



### Scenario:

CE is performing consultant services, including supervision, on a major construction job with several contractors involved for the Ministry (the client). CE refuses to authorise two fairly big payment requests related to change orders from one of the contractors. However, the client pays the invoices without consulting the CE in advance.

A CE employee suspects that the PM of the said contractor is paying bribes to the person in the client's organisation approving change orders

Question 1: ***Should the CE employee inform his counterpart in the client's organisation about his concern?***

Question 2: ***Does it make any difference if the client has discussed the issue with CE in advance?***



## Case 3, Engaging a representative

### Scenario 1:

CE signed a representative agreement a few years back in country A with the objective of developing CE's position within the water and sanitation sector. The representative was and is a well-established business man with a good reputation in the local business society and with good relations to key officials in the ministry responsible for water and sanitation sector.

The scope of the agreement is defined to services related to i) general market intelligence, ii) specific logistical support, and iii) recruitment of support staff for specific projects. The representative is reimbursed for his operational costs and is in addition awarded a fee of 3% of CE's fee of projects awarded.

Question: *Is this agreement acceptable?*



## Case 3, Engaging a representative (cont.)

### Scenario 2:

The question of open ended operation costs has been solved. CE wins a contract financed under a loan from a regional development bank. The consultancy services are only related to capacity building of government staff engaged with rural sanitation and health & hygiene promotion. At the same time the representative develops his business further so he also represents a Korean pump manufacturer supplying water supply pumps to big urban projects undertaken by the same ministry who is responsible for CE's contract.

Question: ***Is it acceptable to continue with the representative?***



## Case 3, Engaging a representative (cont.)

### Scenario 3:

A new CE project opportunity has materialised where the scope of services are broad within the rural water and sanitation sector. Supply of pumps from the Korean supplier might not be relevant. A new representative agreement is to be established to cover any future cooperation, including possible new assignments within the urban water sector. The FIDIC standard format is to be used. The representative is in agreement to all clauses but would prefer to sign the contract in the name of a new company owned by one of his partners. This is done to avoid any conflict of interests between his agreement with CE and the Korean partner.

Question: *Is this an acceptable arrangement?*

## Case 4, Pressure from a client to accept a non-conditional bid



### Scenario:

CE has prepared tender material, and conducted the tendering process in accordance with EU's rules for tendering. CE evaluates the bids received according to the criteria agreed between CE and the client. One of the bids is rejected because it is not delivered before the stipulated time of delivery (one hour late).

### Dilemma 1:

After the municipality receives CE's evaluation, the officer in charge in the municipality contacts CE's project manager requesting him to revise the evaluation note and to include the rejected bidder into the note. The rejected bidder has the contract for the present work and is a local contractor.

Question: ***Should CE revise the evaluation as requested?***

## Case 4, Pressure from a client to accept a non-conditional bid (cont.)



Dilemma 2:

The officer in charge in the municipality approaches CE's project manager again proposing to include the rejected bid in the evaluation note with reference to: A copy of the bid was found in the town hall and this copy was delivered within the time of delivery.

Question : ***Does, this make any difference?***

Dilemma 3:

One day later the officer in charge phones CE's project manager urging him to revise the evaluation note by including the rejected bid with reference to his job and CE's possibilities for future jobs for the municipality.

Question: ***Does, this make any difference?***



# Case 5, Sub-consultant nominated by the client



## Scenario

CE has signed a contract with an Executing Agency for a project funded through an International Donor Agency, and is about to start the services. The TOR and the contract conditions identify a Nominated Sub-consultant (local company) for collection of data needed for execution of the services. Payment for the said services is fixed.

After kick-off and during the inception phase it becomes clear that the Sub-consultant has very close (family) relations with the Director of the Executing Agency. It also becomes clear that the Sub-consultant does not intend to or does not have the ability to collect the data.

From CE's stakeholder analysis it is evident that getting rid of the Sub-consultant would result in major time consuming (and thereby costly) and delicate discussions with the Executing Agency, who could also put up very unpleasant obstructions for CE's work.

Collection of the needed data by CE's own staff will have some cost implications.

**Question: *Is it acceptable to pay the Sub-consultant for work he does not perform?***

## Case 6, Entertainment during a study tour



### Scenario:

In connection with a major project in UK, a study tour to Holland with participation of both officials and consultants is arranged. The official in charge informs CE that the expenses in connection with the participants spending the weekend in Amsterdam are to be paid by the project. CE receives subsequent certification of the expenses.

Question 1: ***Is this an acceptable action?***

Question 2: ***Does it matter if calculations show that the total costs for staying during the weekend are lower than the total costs by leaving Friday night (lower air fare tickets)?***