



# NAC Executive Insights

## Corruption During the Project Execution Phase

### Key Points

- Construction is ranked as a top industry with respect to corruption.
- This Executive Insight complements the Executive Insight “Corruption.”
- Potential acts of corruption during the project execution phase are provided to aid in education and in development of effective mitigation measures.
- A sampling of acts of corruption during the project execution phase provides real life insights.

### Introduction

This Executive Insight:

- defines corruption.
- assesses where the U.S. is currently perceived to stand with respect to corruption.
- discusses how bad corruption is today.
- looks at some factors that make construction prone to corruption as well as motivating and facilitating factors.
- examines company-level efforts that are important in addressing the risk of corruption

This Executive Insight also:

- looks closer at potential acts of corruption in the construction industry, focusing on the project execution phase, including dispute resolution.
- highlights a sampling of acts of corruption during the project execution phase to provide real life insights into its breadth, consequences, and impacts.

A companion Executive Insight explores corruption in the tender phase.

### Potential Acts of Corruption

Potential acts of corruption during the project execution phase encompass a range of actions by a host of potential offenders. The various acts may carry criminal and civil penalties and include both the offending individuals as well as their organizations. Table 1 provides a set of examples to help readers understand the range of corrupt actions that may occur. The table also serves as an aid in designing effective corporate level anti-corruption measures beyond the training that is discussed in the Executive Insight, “Corruption.”

For completeness, examples of corrupt actions during dispute resolution are listed in Table 2.

**Table 1  
Potential Corrupt Acts in the Construction Industry  
Project Execution Phase**

Action	Description	Project Phase	Potential Offenders			
			Owner	Contractor	Engineer	Others
<b><i>False invoicing: supply of inferior materials</i></b>	Concrete supplier deliberately supplies concrete of a cheaper and inferior specification, but invoices the contractor for the required specification.	Project Execution				Concrete supplier; individuals involved
<b><i>False invoicing: supply of less equipment</i></b>	Scaffolding sub-contractor contracts to provide a specified quantity of scaffolding for a fixed price and a fixed duration. Before the contract period for supply has expired, the scaffolding sub-contractor removes part of the scaffolding and does not inform the contractor and does not make any deduction for the scaffolding removed.	Project Execution				Sub-contractor; individuals involved
<b>False work certificates</b>	Earth-moving sub-contractor agrees with construction manager/quantity surveyor that he will falsely certify more loads than the subcontractor actually undertakes. In return, the earthmoving sub-contractor will pay the Construction Manager (CM)/quantity surveyor a percentage of the payment received by the earth-moving sub-contractor for each false load.	Project Execution				Sub-contractor; CM/quantity surveyor; individuals involved
<b>Overstating work-day requirements</b>	A sub-contractor is hired on a day-works basis to undertake work the sub-contractor knows will take approximately	Project Execution				Sub-contractor; individuals involved

**Table 1  
Potential Corrupt Acts in the Construction Industry  
Project Execution Phase**

Action	Description	Project Phase	Potential Offenders			
			Owner	Contractor	Engineer	Others
	<p>100 work-days to complete. The sub-contractor informs the contractor that the work will require 150 work-days, deliberately overstating the work-day requirement in order to achieve a higher price from the contractor. The contractor accepts the sub-contractor's estimate of 150 days.</p> <p>The sub-contractor completes the work using 100 work-days, yet invoices the contractor for 150 work-days, attaching time-sheets for the work. 100 work-days of time-sheets are correct; 50 work-days of time-sheets are falsified to support the amount invoiced.</p>					
<b>Inflated claim for variation</b>	<p>Contractor is instructed by the architect/engineer appointed by the project owner to carry out a variation to the works. The contract entitles the contractor to an extension of time and additional payment. The contractor submits a claim to the A/E which deliberately exaggerates the labor, materials, equipment, and time required to carry out the variation.</p>	Project Execution		X		Individuals involved
<b>Inflated claim for variation</b>	<p>A/E indicates to contractor he is inclined to reduce the contractor's claim, the contractor offers the A/E a bribe if he will approve the full claim. The A/E does so.</p>	Project Execution		X	X	Individuals involved

**Table 1  
Potential Corrupt Acts in the Construction Industry  
Project Execution Phase**

Action	Description	Project Phase	Potential Offenders			
			Owner	Contractor	Engineer	Others
<b><i>False variation claim</i></b>	Contractor performs work not in compliance with the contract specification. The A/E is responsible for issuing variations. The contractor offers him a bribe if he confirms in writing that the work was carried out pursuant to a variation issued by the A/E, and is therefore acceptable. The A/E does so.	Project Execution		X	X	Individuals involved
<b><i>Issue of false delay certificate</i></b>	Contract entitles the contractor to an extension of time and certain payments in the event of specified delays caused by the owner. The contract also provides that the contractor should pay liquidated damages to the owner in the event of specified delays caused by the contractor. Under the contract, the engineer appointed by the owner determines questions of delay and loss and expense. Project is delayed by owner, and contractor applies to the engineer for extension of time and allowed expenses. The owner and engineer are aware the contractor is entitled to both. The owner agrees with the engineer that the engineer should refuse the contractor's claim and instead issue a certificate requiring the contractor to pay the owner liquidated damages for delay. The engineer does so.	Project Execution	X		X	Individuals involved

**Table 1  
Potential Corrupt Acts in the Construction Industry  
Project Execution Phase**

Action	Description	Project Phase	Potential Offenders			
			Owner	Contractor	Engineer	Others
<b><i>False extension of time application</i></b>	A contractor has been delayed in completing the project. Two reasons account for the delay. The first is the delayed delivery of materials by the contractor's suppliers (contractor is responsible and for which he would be liable to pay liquidated damages). The second is a change to the specification for which delay the owner is responsible (contractor entitled to receive an extension of time and additional cost). The contractor is aware that whole or part of the actual cause of the delay is the supplier delay. However, he submits a claim to the A/E appointed by the owner alleging the whole delay was attributable to the change in specification. The A/E accepts the contractor's claim, and awards the contractor an extension of time and additional payment. The owner pays the additional payment.	Project Execution		X		Individuals involved
<b><i>False assurance that payment will be made</i></b>	Owner encounters financial difficulties and realizes he will be unable to complete payment to the contractor. Nevertheless he induces the contractor to finish by falsely assuring the contractor that it will be paid.	Project Execution	X			Individuals involved
<b><i>Delayed issue of payment certificates</i></b>	Owner offers architect a future appointment on another project if the	Project Execution	X		X	Individuals involved

**Table 1  
Potential Corrupt Acts in the Construction Industry  
Project Execution Phase**

Action	Description	Project Phase	Potential Offenders			
			Owner	Contractor	Engineer	Others
	architect delays the issue of payment certificates due to the contractor. The architect agrees.					
<b>Concealing defects</b>	Contractor accidentally omits some structural steel from the foundation and discovers the omission after the foundations have been completed. Neither the A/E nor owner realize the omission. The contractor does not disclose the omission to the A/E or owner. Contractor invoices owner in full for the foundation works (including the omitted structural steel).	Project Execution		X		Individuals involved
<b>Concealing defects</b>	A roofing sub-contractor installs a waterproof roof membrane that is accidentally perforated during Installation. The membrane needs to be approved by the contractor's supervisor before it is covered over and should be rejected and replaced. The subcontractor offers a payment to the supervisor if he certifies that the sub-contractor's defective membrane is water-tight. The payment is made by the sub-contractor to the supervisor and the supervisor issues the certificate. The sub-contractor submits the certificate to the contractor and obtains full payment for the defective membrane. Neither the sub-contractor nor supervisor discloses to the	Project Execution				Sub-contractor; supervisor; individuals involved

**Table 1  
Potential Corrupt Acts in the Construction Industry  
Project Execution Phase**

Action	Description	Project Phase	Potential Offenders			
			Owner	Contractor	Engineer	Others
	contractor that the membrane is defective.					
<b><i>Set-off of false rectification costs</i></b>	Contractor has completed work and applies for final payment. Under the contract, the A/E appointed by the owner is required to specify outstanding defects. The owner persuades the A/E to include in the schedule of defects additional defects that in fact are not outstanding. The owner then sets off the alleged cost of rectification of these defects against the balance due the contractor. The contractor disputes the deduction. The owner informs the contractor that if he does not accept the reduced sum, then he will have to litigate or arbitrate to get the remainder. The contractor cannot afford litigation, so he accepts the reduced amount.	Project Execution	X		X	Individuals involved
<b><i>Refusal to issue final certificate</i></b>	A contractor has properly completed the work and is entitled to receive a final certificate. The engineer appointed by the owner refuses to issue the final certificate to the contractor unless the contractor pays him five percent of the final certificate value. The contractor refuses to pay.	Project Execution			X	Individuals involved
<b><i>Requirement to accept lower</i></b>	An owner owes a contractor payment of the contract price. The contractor has completed	Project Execution	X			Individuals involved

**Table 1  
Potential Corrupt Acts in the Construction Industry  
Project Execution Phase**

Action	Description	Project Phase	Potential Offenders			
			Owner	Contractor	Engineer	Others
<i>payment than is due</i>	the project to specification and within schedule. There is no dispute between owner and contractor. The owner informs the contractor that he will pay the contractor 80 percent of the contract sum immediately in full and final settlement. The owner states that if the contractor does not accept this proposal and wants to recover the full amount, the contractor will have to sue for payment and the owner will make the litigation as long and costly as possible. The owner, a large company that could bear the cost of protracted litigation, knows the contractor would be unable to do so. The contractor agrees to accept the reduced payment.					
<i>Extortion by owner's rep</i>	A contractor is due the final payment on a project. The owner's rep informs the contractor that he will not authorize the release of the final payment unless the contractor makes an extra payment to the owner's rep personally. The contractor makes the payment. The owner's rep authorizes release of final payment.	Project Execution		X		Owner's rep; individuals involved
<i>Facilitation payment</i>	An official demands a payment from a contractor in return for the official to speed up the issue of a permit to which the contractor is	Project Execution		X		Official; individuals involved



**Table 1  
Potential Corrupt Acts in the Construction Industry  
Project Execution Phase**

Action	Description	Project Phase	Potential Offenders			
			Owner	Contractor	Engineer	Others
	entitled. The contractor makes the payment.					
<b><i>Overstating of profits</i></b>	A project manager deliberately overstates the profitability of the project he is managing to enhance his performance bonus.	Project Execution				Project Manager
<b><i>False job application</i></b>	Applicant for a responsible position states in application that he has worked in that position previously. He has not held such a position. He is appointed to the post.	Project Execution				Applicant

Table 2 focuses on the dispute resolution phase but does not address actions by lawyers, court officers, or other extra-judicial circumstances.

<b>Table 2 Potential Corrupt Acts in the Construction Industry Dispute Resolution Phase</b>						
Action	Description	Project Phase	Potential Offenders			
			Owner	Contractor	Engineer	Others
<b><i>Submission of incorrect or misleading contract claims, pleadings, or particulars</i></b>	In a contract claim or dispute resolution, the claimant submits claims or particulars which he knows to be false, or does not believe to be true, or of which he is reckless as to their accuracy.	Dispute Resolution				Claimant; individuals involved
<b><i>Concealment of documents</i></b>	In a contract claim or dispute resolution, the claimant deliberately does not disclose to his opponent or to the dispute resolution tribunal documents that are, or may be, damaging to the claimant's case.	Dispute Resolution				Claimant; individuals involved
<b><i>Submission of false supporting documents</i></b>	In a contract claim or dispute resolution, the claimant submits the supporting documents (examples: timesheets, work records, cost records, schedule information, photographs) as genuine and accurate when he knows they are false, or does not believe them to be true, or is reckless as to their accuracy.	Dispute Resolution				Claimant; individuals involved
<b><i>Supply of false witness evidence</i></b>	In dispute resolution proceedings, a witness as to fact gives evidence on behalf of the claimant (whether by way of affidavit, witness statement, or orally) that he knows to be false or does not believe to be true.	Dispute Resolution				Claimant; witness; individuals involved
<b><i>Supply of false expert evidence</i></b>	In dispute resolution proceedings, a claimant appoints an expert to provide an opinion on an aspect of the	Dispute Resolution				Claimant; expert; individuals involved

**Table 2  
Potential Corrupt Acts in the Construction Industry  
Dispute Resolution Phase**

Action	Description	Project Phase	Potential Offenders			
			Owner	Contractor	Engineer	Others
	claimant's case. The expert's initial report, prepared confidentially for the claimant, is unsupportive of the claimant's case. The claimant makes it clear to the expert that his appointment will continue only if the expert amends his report to make it favorable. The expert does so and believes the amended view to be arguable, but presents it in the report as his most favored view when this is not his belief. The report is then submitted as expert evidence and the expert witness gives oral evidence in accordance with it. Both the expert and the claimant are aware that the expert does not believe his evidence to be true. The success of the claim and counterclaim in the proceedings depend on the outcome of the expert evidence.					
<b><i>Bribery of witness</i></b>	Claimant offers a witness a percentage of any future award by the arbitrator in the claimant's favor if the witness gives false evidence in support of the claimant in the arbitration. The witness accepts and provides a false witness statement and oral evidence that support the claim and undermine the counterclaim.	Dispute Resolution				Claimant; witness; individuals involved

**Table 2  
Potential Corrupt Acts in the Construction Industry  
Dispute Resolution Phase**

Action	Description	Project Phase	Potential Offenders			
			Owner	Contractor	Engineer	Others
<b><i>Blackmail of witness</i></b>	The respondent in an arbitration owes money to the claimant. The respondent tells a witness that he will be dismissed as an employee unless he gives false evidence in support of the respondent in the arbitration. The employee gives the false evidence and the respondent wins the arbitration.	Dispute Resolution				Witness; respondent; individuals involved
<b><i>False information as to financial status</i></b>	Under a settlement agreement, an owner agrees to pay a contractor a certain amount. The owner is late in paying and meets with the contractor to discuss payment. At the meeting, the owner falsely informs the contractor that he is in financial difficulty. The owner offers the contractor a lower amount than the contractor is due and states that if the contractor does not accept the lower amount, the owner would have to be put into liquidation and the contractor will get even less than the amount offered or nothing at all. The contractor accepts.	Dispute Resolution	X			Individuals involved

<b>Table 2            Potential Corrupt Acts in the Construction Industry            Dispute Resolution Phase</b>						
Action	Description	Project Phase	Potential Offenders			
			Owner	Contractor	Engineer	Others
<b><i>False statement as to settlement sum</i></b>	A contractor has reached a confidential settlement with the project owner. The settlement amount includes an amount for payment in full to all sub-contractors on the project. The contractor then meets with the subcontractors, and falsely states that he received a smaller amount from the owner under the settlement agreement than he actually received. The sub-contractors believe the contractor and agree to accept a reduced payment of sums due under their sub-contracts.	Dispute Resolution		X		Individuals involved
<b><i>Complicity by lawyer</i></b>	A lawyer involved in drafting a witness statement is aware the witness does not believe his evidence. Despite this knowledge, however, the lawyer continues to draft the witness statement on the basis that it is true and allows the witness statement to be put forward in support of the claimant's case.	Dispute Resolution				Lawyer

**Examples of Corruption**

While Tables 1 and 2 provide general guidance and insight into corruption during the project execution and dispute resolution phases, Table 3 provides a selection of real examples in a varying set of contexts. The described actions occurred over extended periods in most instances and seldom were isolated events. The year of indictment or legal resolution generally occurred subsequent to the particular events in question. Examples include those resolved either through plea or conviction as well as more recent

ones still pending. In those cases not yet closed, the examples represent charges and do not convey a determination of guilt.

The penalties have been simplified in the table and do not reflect loss of reputation, reduced opportunities, or employment actions beyond those identified. Table 3 provides the realistic discussion points for addressing corruption during the project execution phase more effectively.

Penalties for the examples in this table range up to \$2.168 billion and 10 years.

<b>Table 3</b> <b>Examples of Corruption in the Construction Industry</b> <b>Project Execution Phase</b>			
Party	Description	Year of Indictment/ Legal Resolution	Penalties
Engineer 1	Overbilling on federal contracts (inflated overhead rates)	2015	CEO sentenced to 1 year home confinement; \$4.5 million fine
Owner-Supplier 1	False statements, conspiracy, and fraud to misrepresent project completion dates	2021	\$2.168 billion in settlement payments to owners; two executives with multi-year sentences and multi-million dollar fines. (Two owner executives similarly treated.)
Contractor 1	Fraud against government programs on more than a decade's worth of public works projects	2011	Non-prosecution agreement; \$19.1 million fine
Real Estate 1	Defrauding multiple clients in overbilling scheme	2016	Deferred prosecution agreement; \$9 million in restitution
Contractor 2	Project manager charged with tax evasion on \$1.8 million in bribes on project.	2021	51 months
Contractor 3	Director of global construction charged with failing to pay taxes on pay-to-play bribes.	2020	38 months; \$574,000 in taxes and interest

**Table 3**  
**Examples of Corruption in the Construction Industry**  
**Project Execution Phase**

Party	Description	Year of Indictment/ Legal Resolution	Penalties
Contractor 4	Defrauding clients through overbilling	2015	Deferred prosecution agreement; \$20 million in restitution and penalties
Engineer 2	Failing to pay suppliers promptly	2019	Suspended from UK government Prompt Payment Code
Contractor 5	Disadvantaged Business Enterprise (DBE) fraud	2015	Non-prosecution; \$8 million in penalties
Labor 1	Eleven union officials used their authority to corruptly influence the construction industry at the expense of labor unions and their members. Defendants agreed to accept bribes in exchange for acquiescing in the bidding and performing of construction work with non-union labor for work that would otherwise have potentially been awarded to companies whose employees were represented by local labor organizations.	2021	Pending trial
Contractor 6	Fraud in connection with construction of military and humanitarian projects. CEO of "Contractor 6" and others submitted fraudulent quality control plans with resumes of fictitious employees; fabricated quality control checklists, certifying quality control work that was never performed;	2020	Pending trial

**Table 3**  
**Examples of Corruption in the Construction Industry**  
**Project Execution Phase**

Party	Description	Year of Indictment/ Legal Resolution	Penalties
	filed fraudulent concrete strength test results; and made fraudulent claims for construction that was never performed or that did not adhere to specification.		
Supplier 2	Knowingly delivered concrete panels that would not meet service specifications on a subway line.	2018	Trial pending
Public Service 1	Project administrator solicited and received bribes from contractors.	2018	46 months and \$20,000 fine
Home Builder 1	Stealing from 26 victims including homeowners, suppliers, and workers	2020	10 years
Real Estate 2	Principals charged with stealing \$36 million in federal subsidies by inflating costs and receiving kickbacks from contractors.	2021	Trial pending
Contractor 6	Foreman demanded and received kickbacks from numerous employees of "Contractor 6," who worked on the construction project, thus denying these employees the prevailing wage (federally funded construction contract) to which they were entitled.	2018	Trial pending
Construction Manager 1	Construction manager submitted and approved false invoices on project, embezzling more than \$3.4 million.	2018	Pled guilty; sentencing pending



**Table 3**  
**Examples of Corruption in the Construction Industry**  
**Project Execution Phase**

Party	Description	Year of Indictment/ Legal Resolution	Penalties
Engineer 3	Fraud, false claims, and kickbacks on four government contracts.	2009	\$19 million
Real Estate 3	Defrauding clients	2012	Deferred prosecution agreement; \$56 million in restitution and penalties
Contractor 7	Defrauding clients/ overbilling	2015	Non-prosecution agreement; \$7 million in restitution and penalties
Contractor 8	Use of phony companies in place of legitimate minority-owned businesses on a city's infrastructure contracts (MBE fraud)	2010	\$23 million settlement
Contractor 8	False claims under a state statute	2015	Prohibition from pursuit of a delay claim
EPC 1	False claims for charging the government for materials and services from vendors that did not meet quality control requirements at a waste treatment plant	2016	Penalties of \$125 million
EPC 2	Billed for employees who did not meet the educational and work experience qualifications in the contract and attempted to keep the information secret by claiming that an audit of its labor practices was privileged information.	2019	Penalties of \$6.4 million and reimbursement of overpayments
EPC 2	False claims for improperly billed overhead costs	2017	Penalties of \$1.5 million
Painting Contractor 1	DBE compliance misrepresentation	2021	\$400,000 settlement

## Conclusion

Corruption is a significant concern and a recurring practice globally throughout the construction industry. Efforts by the industry are ongoing in order to raise awareness and increase focus on eliminating these practices. Among the various forms of corruption, bribery is the most common and the most corrosive. It is present during the project execution phase.

## References

1. *Anti-Corruption Training Manual (Infrastructure, Construction and Engineering Sectors)*; Transparency International Global Infrastructure Anti-Corruption Centre

## About the Author

Bob Prieto was elected to the National Academy of Construction in 2011. He is a senior executive who is effective in shaping and executing business strategy and a recognized leader within the infrastructure, engineering, and construction industries.

*Although the author and NAC have made every effort to ensure accuracy and completeness of the advice or information presented within, NAC and the author assume no responsibility for any errors, inaccuracies, omissions or inconsistencies it may contain, or for any results obtained from the use of this information. The information is provided on an "as is" basis with no guarantees of completeness, accuracy, usefulness or timeliness, and without any warranties of any kind whatsoever, express or implied. Reliance on any information provided by NAC or the author is solely at your own risk.*