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Fighting Construction fraud in India

In this report, Grant Thornton India's forensic and investigation specialists analyse Construction fraud in India. They give insights into the scale and types of fraud that organisations are likely to encounter in this country and highlight the main investigative issues involved. This is a supplement to the global insights provided in Grant Thornton's 'Fighting fraud in Construction' report.



“Specific practices in the Indian Construction industry make its fraud environment unique.”

Anil Roy
Grant Thornton India

Scale

Some practices specific to the Indian Construction industry reduce the opportunity for fraud. One is the widespread owner/manager model for Construction projects, where the owner also acts as the project manager for developments. This ownership model cuts out project management as a vehicle for fraud, although it still leaves room for other frauds to take place. A second practice is that of paying fixed rates, that have been agreed in advance, for completion of set targets for square footage on civil construction projects. This reduces the opportunity for frauds based on the theft of materials or adding of specifications.

However, surveys do indicate that India lags behind only the continent of Africa in having the largest number of individuals or companies affected by fraud, the biggest area being corruption involving public officials.

Taking a figure of US\$80 billion as the size of the construction industry in India and applying the Association of Certified Fraud Examiners 2012 global estimate of 5% of revenue lost to fraud would give a total of US\$4 billion in construction fraud.²

Types of fraud

Corruption has several forms. One form is the corrupt acquisition of land and conversion of its use. This is where developers acquire land on which usage is restricted and manage to clear it for conversion to residential or commercial use ready for construction. A second form of corruption is the need to obtain multiple official clearances to allow building to commence. There can be as many as 10 to 12 official agencies from which permission is needed to build. To expedite the process, a 'facilitation fee' will need to be paid at each level.

In addition to bribery, there is also a problem with fraud on government contracts where the agreed fixed rates are inflated and the completion schedule is manipulated to obtain early payment.

"There is still a problem with change of scope of orders, although less than it used to be. There is now more of a focus on variations in scope, which are no longer accepted unchallenged." says Shailesh Pathak, President Srei, Infrastructure Finance.

"The major type of fraud is bribery, driven by the need to obtain multiple official clearances. This should not be accepted as the cost of doing business."

Anil Roy
Grant Thornton India

Prevalence of different types of fraud in India

Type	Prevalence
Billing fraud	Low
Bid/contract rigging – market collusion	High
Bribery/corruption	High
Fictitious vendors – falsifying payment applications	Low
Change order manipulation	Med
Theft or substitution of materials	Low
False representation	Med
Money laundering	High



Trends

The individual buyers of real estate properties can be the victims of fraud if their properties are not completed on time and additional payments are requested to complete the job. There have been cases where builders have launched projects, collected deposits and then disappeared. There have also been instances of the same plot of land being sold to multiple buyers.

It is common practice amongst developers to use the funds of one project to launch the next project rather than complete the first one. Builders have also sold units on land they do not own or where they do not have the appropriate official clearances. Disputes between consumers and

builders go to court for settlement but this can take a very long time to conclude.

The Indian Parliament is currently debating a Real Estate Regulation Bill designed to protect the interests of consumers. The Real Estate industry is aware of this threat to its reputation and the Confederation of Real Estate Developers of India has a scheme to rate builders for their reliability. This has yet to achieve widespread sign-up throughout the industry.

The ambitious Land Acquisition Bill is also being debated in Parliament. It seeks to provide fair compensation to farmers while ensuring that no land can be acquired forcibly.

There have been demonstrations against corruption in India, some of them focussed on public infrastructure projects. This in turn, has increased media coverage of these issues and the result is that corruption does not seem to be as conspicuous as it used to be, but it is still prevalent nevertheless.

“Consumers are at significant risk of fraud from builders and action needs to be taken to mitigate this.”

Anil Roy
Grant Thornton India

Investigation

There is a Central Bureau of Investigation and Serious Fraud Investigation Office (for financial and accounting frauds), which has the expertise and dedicated resources to investigate complex frauds. However, if the allegations are handed to the local police, then they cannot usually be expected to have the necessary experience and resources to investigate thoroughly. The police can work with professional advisers to support them in investigating and preparing cases.

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Anil Roy
Grant Thornton India



Fighting fraud in action

An initiative by the Indian prime minister to fight corruption in government contracts awarded as part of the commonwealth games in Delhi had an encouraging outcome. The prime minister appointed a high level committee to probe allegations of corruption relating to the games, which took place in 2010.

The committee examined the planning and execution of development projects related to the games, and contracts for service delivery, with reference to time, cost and quality. It also looked at weaknesses in management, alleged misappropriation, irregularities, wasteful expenditure and wrongdoing in the conduct of the games; and recommended action.

Walker, Chandio & Co assisted in investigating and preparing the report on the games village. The investigations led to prosecution of certain members of the organising committee.

Call for action

- Simplification of the regulations and permissions required to start Real Estate and Construction projects, without compromising on safety and quality, would help to drive growth. The creation of a single agency to deal with this rather than multiple agencies would reduce the scope for corruption and speed up projects considerably.
- Effective and equitable enforcement of existing laws on bribery and corruption and action against those who violate the regulations would bring confidence to the Real Estate and Construction market.
- Proposed legislation such as the Real Estate Regulation Bill and the Land Acquisition Bill are measures in the right direction to create a regime of transparency in the sector, protect the interests of consumers and monitor the builders in the land acquisition and the construction process. However, the need of the hour is effective implementation of laws and severe punishment for offenders.

“Simplification of the clearance process for construction projects and the implementation of existing laws effectively and equitably will generate confidence and stimulate growth.”

Neeraj Sharma
Walker, Chandio & Co

“To really help business the government should bring in a transparent route for regulatory approval that has fixed deadlines and a defensible process.”

Shailesh Pathak
President Srei,
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“We need to learn from the evolution of anti-corruption initiatives in other countries and get our own act together. Everyone would benefit from a level playing field.”

Shailesh Pathak
President Srei,
Infrastructure Finance



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