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Abstract

Ethics is an integral part of virtually every organization that is serious in the implementation of its business practice. Therefore, it is imperative that every organization to have an ethical policy or in other terms, a business code of conduct for the company in question. Ethics has attained absolute relevance in companies. This is due to its enormous contribution in creating codes of conduct that streamline business practice in every organization. Indeed, ethics spans major areas of operation which include: procurement, supply chains, acquisitions and contracting.

Procurement is that term which denotes responsibility of the organization in sourcing for materials, services and also supplies. Supply chains are the systems in place in an organization for the flow of its products and/or services from production to consumer stages. It thus has everything to do with all processes that are utilized in the entire business chain of a product and/or service. Acquisitions refer to take-over of franchises and/or entities that are contracted out by the mainstream business chain to carry out its core business. In this case, the mainstream business purchases the franchises comprehensively to achieve full ownership status. In all areas of operation, ethics becomes an important part of business practice since it helps create integrity, trust as well satisfaction for both the clientele and organizations.

It is in this context that this paper will look at specific issues arising in purchasing, and that are subject to ethics in the daily running of a business. These issues are majorly on acquisitions and contracting as forms of business practice. Major decisions are required in such cases as contracts

and acquisitions. Such decisions have to be further guided by ethics that govern the behavior of organizations in trying to eliminate poor conditions in their business practice. Finally, the paper will consider examples of businesses and contractors that have already established absolute ethics of governance in their business practice.

Key words: Ethics, acquisitions, contracting, supply chains, procurement.

Introduction

Ethics is certain codes of conduct that are set out in an organization's policy. They are meant to address issues of clarity about the priorities and responsibilities within specific organizations that endorse them (Mehra and Inman, 2004). Ethics are also meant to act as a guide for all persons that are in direct or indirect relationship with the organization. These may include such people as buyers, contractors and other staff in an organization. Ethics (codes of conducts) may be divided into two categories based on their scope:

- Blanket code of conduct.
- Specific code of conduct.

Blanket code of conduct refers to that code of conduct which has no limitations, that is it is employed in every organization around the world. Organizations operating by this code, usually, have no differences, no matter where the organization is based. On the other hand, the specific code of conduct represents the scenario whereby the focus turns on specific issues, especially on a country-by-country basis (Mehra and Inman, 2004). This arises due to the consensus that there are major and unique characteristics in working conditions for every country that is considered. For this reason, it is agreed that there should be a code set out for country-by-country match. Indeed, the latter code of conduct seems to have much weight because standards that are always outlined in the former scenario majorly focus on aspirations in relation to working conditions. What they fail to address is the current reality of these working conditions in different countries, which the latter system easily addresses.

Ethics plays a very noble role in acquisitions and contract management. Acquisitions and contract management are two areas of business that require major decisions from stakeholders in any organization. They are also sectors where caution is exercised due to the sensitive and fragile nature of their issues. Indeed, there has been notable growth in ethical investment relating to acquisitions and contract management since the 1980's.

This growth has been spurred by-laws, whether universal or local, which tend to be firm on organizations in their respective responsibilities relating to acquisitions and contracting. There has also been pressure as well as campaigns from the clientele and other stakeholders, and that has resulted to the ultimate introduction of such ethics on purchasing. This has mostly been evidenced in some of the major manufacturers and also a section of the major retailers (Butt et al, 2003). Governments, on their part, are also aggressively taking part in ethical purchasing agenda. For instance, the UK Department for International Development (DFID) has resorted to the provision of financial support to the Ethical Trading Initiative (ETI). Subsequently, the DFID produced a report on the same reviewing the local code of conduct for UK organizations on matters relating to ethical purchasing (Chen et al, 2004).

On matters acquisitions and contract management, there arises a critical issue that every organization should strive to employ: business-to-business ethics. This is mostly a complex situation that arises when addressing ethical as well as issues on social responsibility between business entities (Butt et al, 2003). Such issues are mostly extremely sensitive and require recommended best practices which include guidelines for developing and improving operations and support. This forms the basis of ethics in acquisitions and contract management. For instance, business buyers ought to seek concrete guidance while remaining transparent about any concerns with business partners, colleagues and internal clientele. This should be possible in spite of the difficulties that may prevail. Ethics in the acquisitions and contracting sector should be geared towards the following four key issues:

- Transparency and fairness: this has to do with both business parties receiving fair treatment at every stage of the procurement domain. This further narrows down to openness to and from all parties involved. This in turn creates an understanding atmosphere, especially with procurement elements that include requirements, criteria for consideration, processes, and timescales. The parties involved should feel that the treatment they get is in line with the codes of conduct in place between the entities in question.
- Power: no form of purchasing power which seems unfair or subsequent influence should be encouraged as these often lead to the unlikelihood of ever achieving value for money in the long-term.
- Corruption: corruption in any form must not be tolerated for all parties involved. Parties with any information relating to corruption activities have a

professional duty under the universal code of conduct to raise an alarm on such scandals. For instance, in the UK and many other countries, it is a criminal offence to bribe or participate in any corruption activity. This has further gone a notch higher by strengthening the existing law to also include offshore bribery.

- Interest declaration: declaring interests for the parties usually involved is the foundation of a smooth business relationship. The parties involved should find it easy to express all their personal interests that may be taken to reflect their impartial nature in the business or judgment in their respective duties. This may extend to such cases as getting significant shareholding status in a certain entity or supplier or a scenario where close members of the family are employed by a major supplier or business entities in negotiations.

These four issues are very critical in guiding the implementation of ethics in an organization or between business entities in talks of partnership or acquisitions. They act as the gold standard by which virtually all codes of conduct must be created (Chen et al, 2004).

Five foundation levels of contractors exist. These are fixed-price contractors, cost-reimbursement contractors, incentive contractors, time-and-materials contractors, and performance-based contractors. These categories of contractors also come with levels of codes of conduct with them. For instance;

- For the fixed-price contractors, a firm price or in some cases an adjustable price is offered. For those that offer an adjustable price, the code of conduct should dictate that there be a ceiling or target price (or both) where price cannot go beyond what has been agreed on.

- For the cost-reimbursement contractors, the code of conduct provides for the payment of costs incurred up to the extent agreed upon in the contract between the supplier and buyer. The contractors, in this case, agree on an estimate of total costs as well as a ceiling that the contractor cannot exceed unless with the approval of the buyers of the contract.
- Incentive contractors take root where fixed price contracts are not necessary. They also come in scenarios where goods and/or services required for supply can be supplied cheaply and in some cases, with improved technical performance and delivery. In this case, the incentive contracts apply the profit to the contractors' performance.
- For Time-and-Materials Contractors, theirs is a story of estimation. In this case, the code of conduct that governs this kind of contract dictates that it be entered only if and when during the time of signing the agreement there were no accurate data on costs or duration of contract.
- For Performance-based contractors, the total package received is dictated the performance and quality levels of the contractors. In this case, the code of conduct in this contractual category dictates that goods delivered or services offered should meet the standards of the contract.

These categories of contractors represent codes of conduct in purchasing and contracting that remain in place as long as the agreement or contract abides. This shows why the subject of ethics is such an important one in business, especially in acquisitions ad contract management between buyers and suppliers.

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