Preventing corruption in Public Procurement
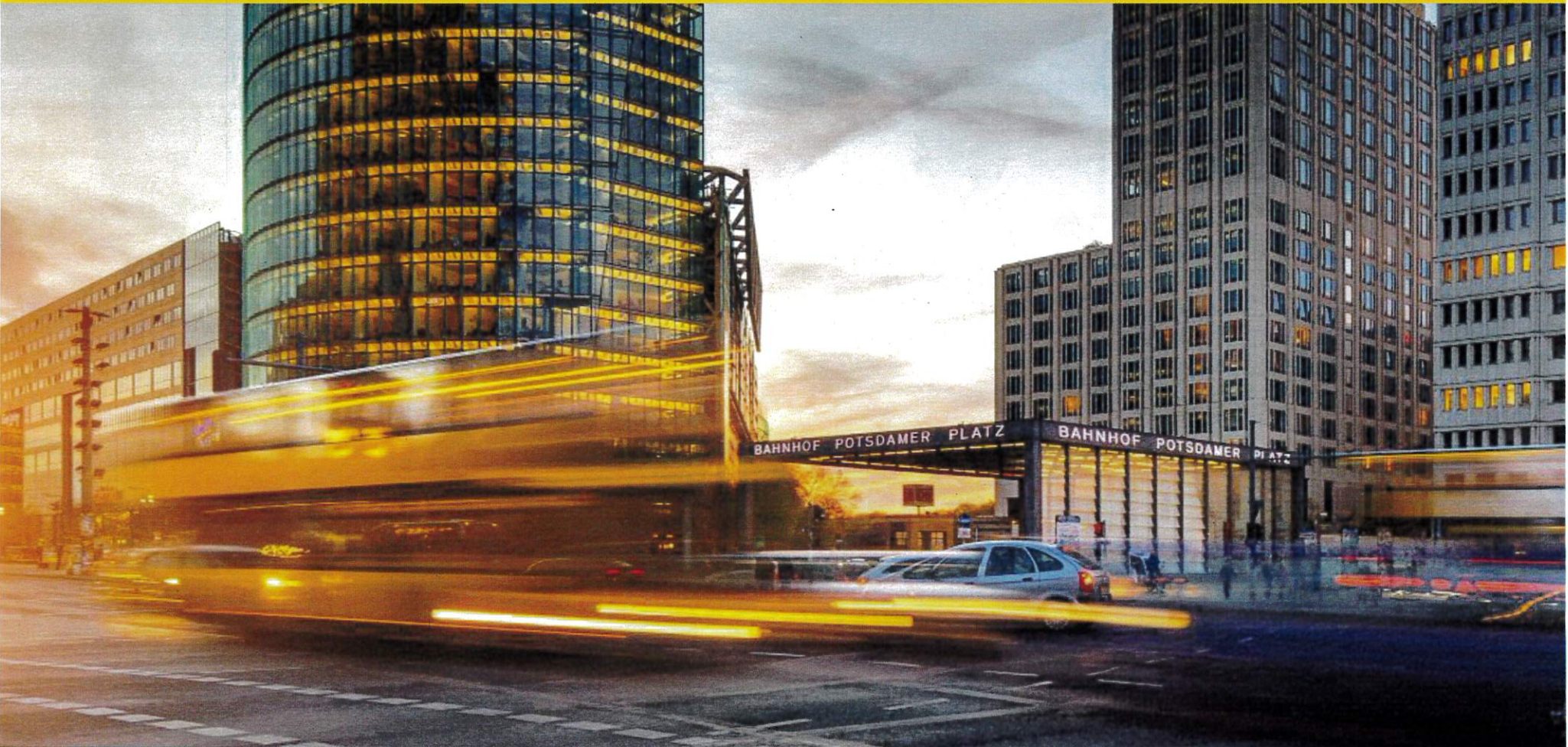
Recap

Investigation methodology

Investigation methodology – broad steps

▸ Securing the brief

▸ Planning

▸ Investigative approach

▸ Sources of evidence

▸ Other possible outcomes

ADB

Investigation methodology – securing the brief

▶ Initial knowledge gathering

▶ Conducting preliminary enquiry

▶ Need to get a brief from the senior officials

▶ Process understanding

ADB

Investigation methodology – planning

▸ Scope of investigation

▸ Stakeholders (Internal and External)

▸ Entity structure and legal implications

▸ Cross-location investigations

▸ Forming the investigation team

ADB

Investigation methodology – investigative approach

▶ Professional skepticism

▶ Information and evidence

▶ Burden of proof

▶ Standard of proof or weight of evidence

▶ Broader implications

ADB

Investigation methodology – sources of evidence

▶ Identification of data (Internal and External)

▶ Preservation and collection of evidence

▶ Discovery (or disclosure)

▶ Physical evidence

▶ Electronic evidence

▶ Business intelligence

▶ Investigative interviewing

▶ Whistle blowers

ADB

Investigation methodology – evidence gathering

▶ Document reviews / transaction testing

- o Understand the standard process

- o Understand the documents generated at each stage of the process

- o Collect all possible documents related to the process and transaction

- o Collect documents for transactions similar to the transactions being investigated

- o Benchmark the documents collected against the process and identify process gaps or potential red flags based on the documents gathered.

- o For every deviation and red flag identify the people involved

ADB

Investigation methodology – evidence gathering

Invoices

Purchase orders and vendor selection documents

Contracts / agreements

Vendor creation documents

Attendance records

Gate entry records

Policies – Code of Conduct etc

Standard Operating Procedures (SOPs)

ADB

Investigation methodology – digital forensics

Digital forensics is a branch of forensic science pertaining to legal evidence found in computers and digital storage media.

Forensic imaging is a process of creating a sector-by-sector replica of the structure and contents of a storage device.

Data can be extracted from various media to reveal the content of the files as well as the 'metadata' associated with those files.

It is the practice of collecting, analyzing and reporting digital information in a way that is legally admissible.

While selecting the forensic imaging method to be employed, the circumstances and equipment available should be factored in.

ADB

Investigation methodology – background checks

Wheel diagram with "Target" at center surrounded by:
- Background, reputation and ethical track record
- Market reputation and credentials
- Business history, activities and operations
- Suspected involvement in bribery or corruption
- Ownership and existence
- Associations or relationships of potential concern
- Regulatory and litigation history

What is it?

► Gathering information about the reputation and dealings of the employees / vendors / customers

How does it work?

► Searches can be carried out on internet and in various databases:
  ► Google
  ► Government sites
  ► Legal databases
  ► Fraud databases - World – Check, OFAC

► Site visits & interviews – information can be gathered from sources like:
  ► Customers
  ► Competitors
  ► Associates
  ► Vendors

ADB

Investigation methodology – other possible outcomes

- ▶ Disciplinary proceedings

- ▶ Accused filing a legal case

- ▶ Giving testimony

- ▶ Allegations unfound – case closed

- ▶ Investigation was inconclusive and requires expert intervention

ADB

Fraud detection concepts
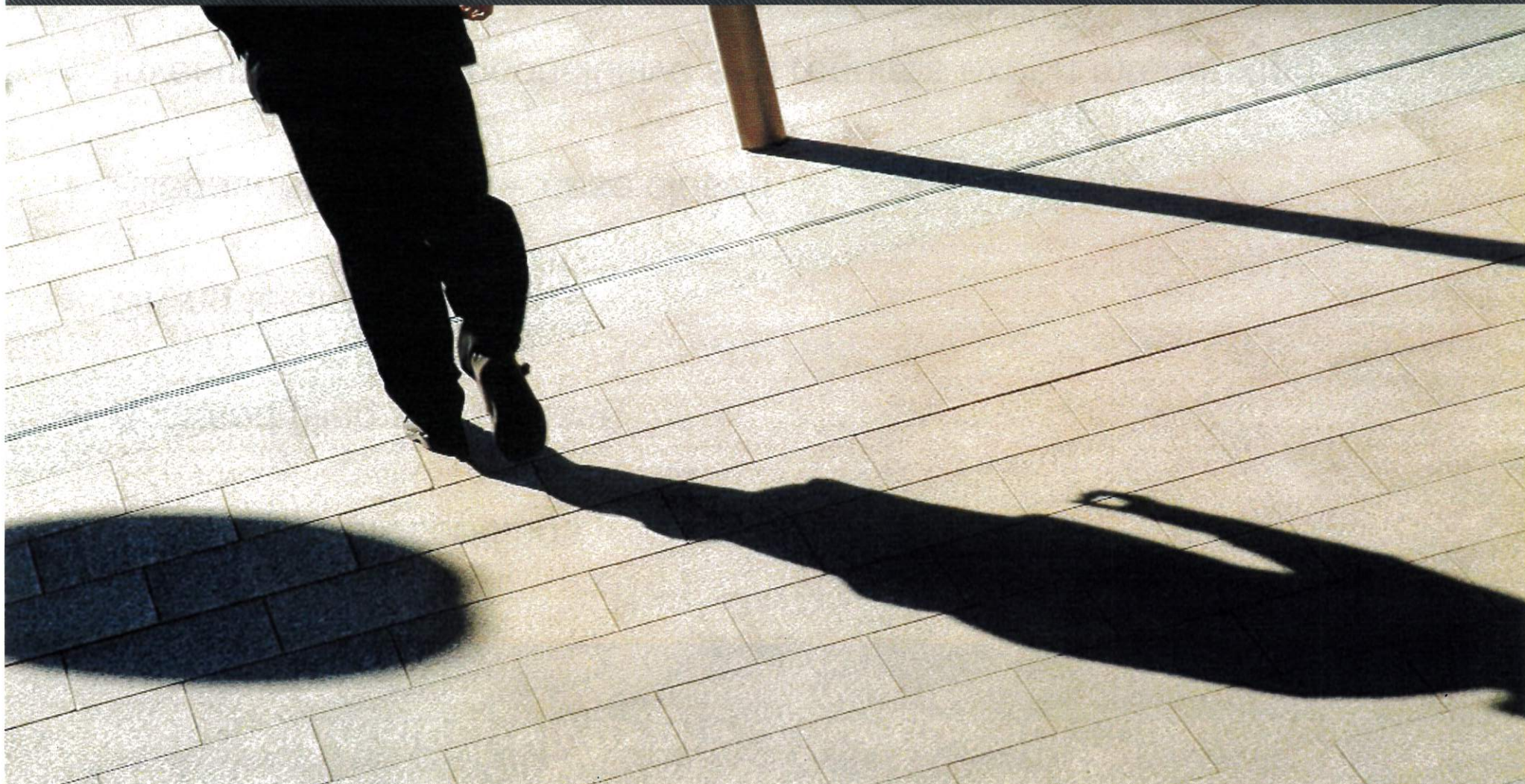
ADB

Why do we miss red flags

01 **Do not know** what can go wrong in specific terms

02 Discovery of fraud is **not a focus area**

03 **Down play detective controls**, in light of preventive controls

04 **Fail to realize implications** from fraud indicators

05 Fraudsters **just plain fool us**

ADB

How bribes and ethical violations can occur

The need

- ▶ Pre-bid discussions
- ▶ Tendering
- ▶ Contracting
- ▶ Execution of contract
- ▶ Collection of account receivables

- ▶ Licenses, Permits
- ▶ Approvals
- ▶ Inspections
- ▶ Audits
- ▶ Submissions

Common approaches
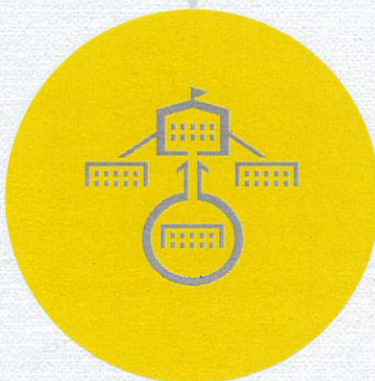
Payments to project staff for:

- ▶ Confidential information around pre-bids & post-bids
- ▶ Tendering /backdoor entries
- ▶ Commission / margin
- ▶ Accounts receivable
- ▶ Entertainment for government officials to maintain relations

Reimbursement:

- ▶ Payments for meals and entertainment
- ▶ Gifts & sponsorship
- ▶ Charitable donations
- ▶ Improper payments

Petty cash:

- ▶ Cash voucher
- ▶ Expense recorded as office maintenance/ miscellaneous etc.

ADB

Break

ADB

Team activity - investigation
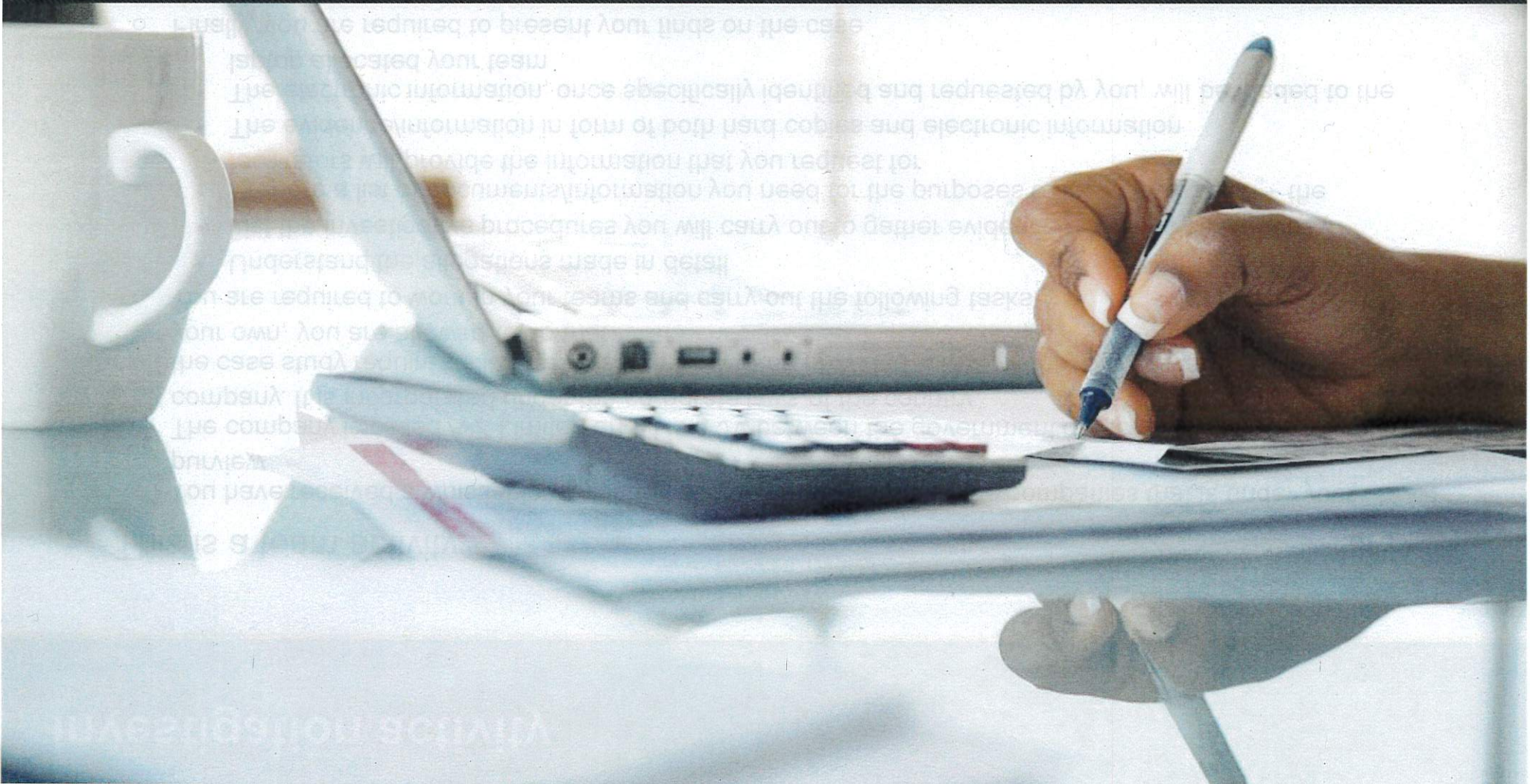
Investigation activity

► This is a team activity:

- o You have received a whistleblowing letter, alleging fraud in one of the companies that is under your purview
- o The company is called A-Z Limited and it is a JV between the government of the country and a private company. It is incorporated under the corporate laws of the country
- o the case study requires a laptop – each team will be provided with a laptop, but in case you need to use your own, you are allowed to do that
- o You are required to work in your teams and carry out the following tasks:
  - Understand the allegations made in detail
  - List the investigative procedures you will carry out to gather evidence related to allegations
  - Prepare a list of documents/information you need for the purposes of the investigation – the facilitators will provide the information that you request for
  - The evidence/information in form of both hard copies and electronic information
  - The electronic information, once specifically identified and requested by you, will be loaded to the laptop allocated your team
- o Finally, you are required to present your finds on the case
  - Which of the allegations are true – with evidence and reasons
  - Which allegations have not been substantiated – with reasons

Time allotted: 120 minutes

ADB

Break

ADB

Investigation activity

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Time allotted: 120 minutes

ADB

Prevention

Some leading practices

- ▸ Periodic risk assessment

- ▸ Zero tolerance

- ▸ No ambiguity

- ▸ Effective training

- ▸ Hotlines

- ▸ Fraud response plan

- ▸ Mystery shopping and surprise audits

- ▸ Monitoring

- ▸ Third parties

ADB

Anti fraud program

Setting the proper tone			Proactive		Reactive
Fraud prevention policies		**Communication and training**	**Fraud risk assessment**	**Fraud controls monitoring**	**Fraud response plan**
▸ Corporate values and principles ▸ Honest and ethical conduct ▸ Regulatory compliance ▸ Code compliance accountability ▸ Disciplinary code ▸ Code violations reporting	▸ Fraud strategy ▸ Risk appetite set ▸ Authority delegation ▸ Roles & responsibilities ▸ Background checks	▸ Tone communication program ▸ Employment contracts ▸ Mgt performance agreements aligned ▸ Code compliance confirmation ▸ Whistleblower channels ▸ Fraud awareness training	▸ Fraud risk schemes & scenarios ▸ Industry and geography specific ▸ Priority risks only ▸ Transactional monitoring / IT detection tools ▸ Benchmarking to peers ▸ Introducing appropriate controls	▸ Incident reporting ▸ Specific fraud risk controls ▸ Company level controls ▸ Analytics: data and text mining	▸ Escalation and investigation protocol ▸ Discipline and compliance enforcement ▸ Control remediation ▸ Financial recovery

ADB

Fraud risk assessment - detailed approach

Stage	(1) Preliminary review and analysis	(2) Current State Assessment	(3) Identifying the fraud vulnerabilities	(4) Data analytics & transaction testing	(5) Reporting gaps & recommendation
Activities	► Review relevant policies, procedures & guidelines ► Review background information (History of frauds/audit & other issues in the area) ► Conduct discussions with process owners to gain a broad level process understanding ► Data analytics to detect red flags and anomalies	► Conduct discussions and process walkthrough with process owners to understand processes, critical sub processes and activities ► Review records maintained (manual/automated) ► Document and prepare detailed process maps depicting the activity flow	► Identify fraud vulnerable areas for the select processes ► Review relevant past internal / management audit reports and investigation reports, if any ► Identify fraud risks vulnerabilities based on inherent risks, past history, industry instances, etc. ► For each of the identified fraud risk vulnerabilities, understand the existing controls institutionalized by the Company	► Understand the effects of information technology - application control, general IT controls (access/ password protection, etc) ► Identify gaps in existing control design ► Assess whether existing controls are functioning as designed using data analytics & test checks ► Perform forensic testing on select transactions identified	► Assist management in summarizing and prioritizing control gaps/areas for improvement ► Provide recommendations to mitigate identified gaps (manual & automated) ► Develop way forward for transactions / areas requiring further investigation

ADB

Break

ADB

Final case study

Final case study

► This is the final case study and needs to be done in teams:

- o As a team, you are required to develop standard operating procedures (SOPs) for an area related to procurement
- o Each will be allotted a different area
- o You are required to prepare the SOPs on your flip charts available to you
- o Please use the knowledge and learning on the past two days to prepare the best possible SOPs, incorporating adequate controls that can prevent a fraud
- o Each team will present their final SOP using the flip chart they have prepared – other will be allowed to ask them questions

Time allotted: 45 minutes

ADB

Questions?

Thank you