Awarding public contracts and safeguarding integrity: the Italian experience

Stefano Caneppele
Università Cattolica of Milan - Transcrime
stefano.caneppele@unicatt.it – www.transcrime.it

CIROC Seminar on Integrity in Public Tendering Procedures, Utrecht, 29 September 2014

About Transcrime and its Research Agenda

Joint Research Center on Transnational Crime

- Founded in 1994 and directed by Prof. Ernesto Savona
- 2 Offices (Milan & Trento) + 25 people in the research team
- Funded by public and private institutions
- Research Agenda: Organized Crime and OC Infiltration in the Legitimate Economy, Illicit Markets and Transnational Crimes
The OCP Portfolio Organized Crime Portfolio

Partners from: Italy, UK, Finland, France, Spain, and the Netherlands (University of Utrecht)

ocportfolio.eu/

Preliminary maps
The Ariel project – Assessing the risk of infiltration of Organized Crime in EU MSs Legitimate Economies

Partners from: Italy, UK, Sweden, Slovenia and the Netherlands (Netherlands Institute for the Study of Crime and Law Enforcement)

Mafia in Public Procurement: A growing attention...

Newspaper articles on OC infiltration in Public Procurement. 2000-2010.

Source: Corriere, Repubblica, La Stampa, il Giornale, il Sole24 Ore, Corriere del Mezzogiorno, Gazzetta del Sud, Severi 2011
...but the problem of OC infiltration was well-known even before

Second half of the 1980s
Minister of Public Works for Cosa Nostra
Manipulation of bids / Mafia Companies cartels to exploit vulnerabilities of legislation
Famous for being able to open and close bid envelopes without leaving traces
He assigned public contracts to businesses close to Mafia groups through rotation

Preventing OC infiltration through an administrative approach: the case of the Antimafia Certificate

First approved in the 1990s

Three levels
- under 150.000 Euro – no certificate;
- under EU threshold – antimafia communication;
- above EU threshold – antimafia certificate

Mandatory requirements for being eligible for public contracts awarding
The counter strategy of OC Groups

• Using straw men
• Buying clean businesses
• Taking advantage of information gaps among local authorities (no information sharing)
• Splitting contracts (less than 150,000 € each)
• Infiltrating subcontracts
• Adopting urgent procedures to avoid the bureaucratic burden

Antimafia Certificate costs

% of Antimafia certificates requested and not awarded in 2009-2010

• In 2010 - Survey to Prefectures (61 out 110)
• Estimated average cost per certificate: 25 euro
• Staff cost 6.2 million € per year
• Cost per single rejection: 9,000 €

N of estimated requests = 248,000
Source: Calderoni 2011
Antimafia certificates work but…

• Controls are mainly on big public works
• Data exchange among different databases should be improved
• Increasing scope of controls with the same staff generate overworkload which facilitates a bureaucratic attitude (less effective controls)
• The system does not take into account the risk of OC presence (25 Prefectures out of 61 did not reject any request in 2009-2010, 44 out of 61 had less than 10 rejects per year)
• Developing a risk analysis model to discriminate cases at risk

How to build a risk assessment model?
The Risico experience (2007-2010)

Software developed for the Ministry of the Interior in order to assess the risk of infiltration of OC in public procurement (from 0 to 100) according to four different levels:
- Geographical
- Public contract characteristics
- Business characteristics
- Business Representatives characteristics
Ris.I.C.O. 2.0 – Fast analysis

- Procurement Risk Factors
- Geographic Risk 0-100
- Infiltration Risk 0-100
- Boost or variable combinations
- Boost or variable combinations

Mean RA-RI-RP 60% - RT 40%

Ris.I.C.O. 2.0 – Standard Analysis

- Procurement Risk Factors
- Businesses Risk Factors
- Geographic Risk 0-100
- Infiltration Risk 0-100
- Mean R1-R2
- Boost or variable combinations

Mean RA-RI-RP 60% - RT 40%
Ris.I.C.O. 2.0 – In-depth analysis

- Procurement Risk Factors
  - Boost or variable combinations
  - Procurement Risk 0-100

- Businesses Risk Factors
  - Boost or variable combinations
  - Business Risk 0-100

- Business Reps Risk Factors
  - Boost or variable combinations
  - Business Reps Risk 0-100

- Geographic Risk 0-100
  - Ponderation Mean RA-RP-RF 60% - RT 40%
  - Boost or variable combinations
  - Infiltration Risk 0-100

Mean R1-R2-R3

Example of geographical risk: the Mafia Index

Mafia Index 2000-2011

- Rome
- Milan
- Camorra
- 'Ndrangheta
- Cosa Nostra

Legend
- Green: Low
- Yellow: Medium
- Orange: High
- Red: Very High

Legenda
Valore indice
- Verde
- Giallo
- Arancione
- Rosso
What happened to Risico?

Risico model was not officially adopted but the philosophy of risk assessment was accepted.

**National Anti Corruption Authority (2013):**
Pilot methodology to develop risk corruption indicators in public contracts (red flags) adopting indicators similar to the Risico model.

The awarding of public contracts is also undermined by corruption…

---

Corruption In Italy

69th (out 177) position in the Corruption Perception Index of TI (worse than other Western Countries)

But “Corruption is not everywhere”

Business victims of corruption in the past 12 months – 2008
Source: Transcrime

Need for a reliable estimate of corruption
Anti-corruption initiatives

✓ 2009 - Legislative Decree 150/2009
Independent Commission for the evaluation, transparency and integrity of the public administration

✓ 2012 – Law 190/2012
Law aimed at Preventing and Punishing Corruption and Illegality in the Public Administration

22% of convictions related to corruption in public contracts (Period 2007-2011, Italian Court of Auditors)

Main Innovations in the Anti-corruption Law/1

- **National Action Plan** against corruption

- Public administrations have to:
  - appoint an anti-corruption manager
  - draft a triennial anti-corruption plan and arrange anti-corruption initiatives (e.g. manager turnover, adoption of a code of ethics)
Main Innovations in the Anti-corruption Law/2

- **The anti-corruption** manager can be sanctioned if there is a conviction for corruption in the organization while he/she is in charge, unless he/she proves he/she has diligently implemented the anti-corruption plan.

- Convicted politicians not eligible for election and governmental positions for at least 6 years.

Implementation criticalities

- Political instability
- Lack of competences in the public administration
- Bureaucratic approach (culture of compliance)
- Lack of a risk assessment approach
- Whisteblowing is not working yet

WHILE

- Ineligibility law seems to work better – not updated information (2013) report more than 60 declarations of ineligibility.
To conclude

- Italian safeguarding system on public contracts is better than it was in the past
- Criticalities exist (lack of control especially at local level and in area controlled by OC)
- New anticorruption measures seem to be promising although it is still too early to assess their impact
- The public administration should adopt a risk assessment approach to prevent and manage corruption (e.g. crime proofing)

Green Energy and Black Economy

VULNERABILITY OF REGULATION

- **HIGH MARGINS**: Average feed-in tariff for wind power in Italy: **240 euro/MWh** (Max 300 euro/MWh) vs Germany (89 euro), Spain (83), France (82), UK (125)
- **WEAK CONTROLS**: Opportunity for corruption at local level. Relevance of OC groups in their area of influence (gatekeepers)

Source: Caneppele, Riccardi, Standridge 2013

---

Table 4  Correlation matrix
Source: Caneppele, Riccardi, Standridge 2013

<table>
<thead>
<tr>
<th></th>
<th>MW installed</th>
<th>WTG installed</th>
<th>WP potential</th>
<th>OC presence</th>
</tr>
</thead>
<tbody>
<tr>
<td>MW</td>
<td>1</td>
<td>0.988**</td>
<td>0.727**</td>
<td>0.689**</td>
</tr>
<tr>
<td>WTG</td>
<td>0.988**</td>
<td>1</td>
<td>0.695**</td>
<td>0.654**</td>
</tr>
<tr>
<td>WP</td>
<td>0.727**</td>
<td>0.695**</td>
<td>1</td>
<td>0.256</td>
</tr>
<tr>
<td>OC</td>
<td>0.689**</td>
<td>0.654**</td>
<td>0.256</td>
<td>1</td>
</tr>
</tbody>
</table>

**N=20** Statistically significant at 99% level
Awarding public contracts and safeguarding integrity: the Italian experience

Stefano Caneppele
Università Cattolica of Milan - Transcrime
stefano.caneppele@unicatt.it – www.transcrime.it

CIROC Seminar on Integrity in Public Tendering Procedures, Utrecht, 29 September 2014