

Mandatory Disclosure: A Case Study in How Anti-Corruption Measures Can Affect Competition in Defense Markets

By Christopher R. Yukins, Lynn David Research Professor in Government Procurement Law and Co-Director, Government Procurement Law Program, The George Washington University Law School

ABSTRACT: In U.S. defense contracting, an increasingly important tool in fighting corruption is “mandatory disclosure” -- the requirement that when managers at a contracting firm discover that the firm has been engaged in certain wrongdoing, they must disclose that wrongdoing to the government. Mandatory disclosure plays an especially prominent role in defense contracting, both because of the relative importance of defense spending and because a handful of very large prime contractors, with extraordinarily strong compliance and disclosure systems, dominate the U.S. defense marketplace. Because those large contractors set a high norm for disclosure, which other contractors have difficulty matching, the U.S. defense market raises an interesting quandary: Does mandatory disclosure, an important anti-corruption tool, in effect dampen competition in a procurement market?