

# CORPORATE ENGAGEMENT PROJECT

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## Issue Paper

### Contracting Policies

*This paper is one of a series of Issue Papers based on preliminary findings from the site visits and consultations carried out by the Corporate Engagement Project (CEP). CEP is a collaborative learning project involving multinational corporations that operate in areas of socio-political tensions or conflict.*

*Based on visits to companies' field site operations, CEP identifies and analyzes the challenges for corporations that recur across a wide range of different companies and contexts. From the patterns that emerge, CEP develops practical management tools to managers for supporting stable and productive relations in the societies where corporations work.*

*The Project is based on two fundamental premises:*

*1. Inevitably, corporations become a part of any context in which they operate. Companies' day-to-day activities have impacts on the societies where they work. These impacts can be either positive or negative, but, in a context of social or political tension, never neutral.*

*2. Most companies channel their interactions with local communities through community relations programs, often related to the objective of conflict management. However, daily operational interactions with communities such as compensation policies, hiring policies or stakeholder consultation are equally, if not more, important in establishing the terms by which communities view the impact of the corporation on their lives.*

***This paper is a working document, not a final product of the Project.*** Rather, its purpose is to elicit further thinking, experience, ideas and suggestions. Additional site visits and consultations are being carried out to encourage further engagement, challenge, and refinement of the ideas presented here.

*More information on CEP can be found at <http://www.cdainc.com>.*

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## CONTRACTING POLICIES

Companies often face dilemmas around to whom they should award their contracts. These can be contracts during the development phase or during operation, awarded for everything from clearing a project site to providing food or transportation services.

The choice of to whom to give contracts can have serious implications, and often can lead to violence. We have seen that contracting policies can be problematic and even feed into conflict, both when contracts are rewarded to outsiders of a region, and when contracts are awarded to local contractors for the “wrong reasons.” Conflict may be even further exacerbated when those groups that benefit from contracts and those that do not are the same groups that are already in conflict with each other.

### **Pitfalls in awarding outside contractors**

Companies often find it easier to hire contractors from outside areas (because they have better equipment, better trained staff, etc.). This risks feeding into conflict *between the company and the community* in the following ways:

#### **Construction contractors from outside often start companies off on the wrong foot.**

The construction crews that come in to prepare field sites for a company’s arrival are often the first representatives of the company that the community sees. They therefore create an important first impression. Unfortunately, given their short presence on site (only to build the mine), construction companies often do not prioritize establishing good relationships with local communities, or even with the company’s own operating crew. Construction crews usually operate under a tight budget and strict time line, even receiving bonuses if they perform “on-time and on budget.” It is often during the construction phase that relations between the company and local communities initially turn sour. The development crew that consequently follows once construction is finalized frequently has difficulties reversing the bad first impressions and overcoming local skepticism and distrust.

It can also feed into conflict *within communities*:

**Locals feel they are overlooked and blame outsiders.** Often local communities feel they should be given preference for contracts, since they are most directly experiencing the impacts of the company’s presence. When they are overlooked, they often blame outsiders, which can exacerbate tension or divisions between “locals” and “outsiders”. These conflicts may even turn violent, for example, if locals try to oust outsiders in order to be better positioned to get their contract.

### **Pitfalls in awarding local contractors**

Companies encourage subcontracting activities to local communities in order to 1) simulate economic activity in the area of operation, 2) compensate for negative impacts

of the company's presence by providing income, and 3) build capacity of local entrepreneurs that encourages sustainability after the company leaves.

There are examples where a well-designed contracting policy can transfer resources to local communities in constructive ways. On the other side, ill-designed policies can feed into or exacerbate conflict *between companies and communities* in the following ways:

*Communities can “create” their own need to be contracted.* When companies grant contracts to individuals from a given community for work undertaken in that community, this can lead to villagers “creating” work for themselves. For example, some people sabotage pipelines in order to receive a contract for cleaning up the oil. Similarly, awarding contracts to local security contractors provides incentive to maintain a level of violence around an oil installation so that it needs “protection.” Such policies create more violence than that they reduce.

**Handing out contracts to local communities to quiet resistance can mask underlying frustrations without solving them.** Companies tend to award contracts to the most prominent, vocal, or obstructive groups in order to quiet them and to maintain control; thus, it can become “buying them out.” This does not address underlying frustrations, which could be done more effectively through negotiating with community groups, for example.

Contracting policies can fuel conflict *within communities* in the following ways:

**Access to contracts can increase unhealthy competition and violence.** Winning contracts for providing services to a company is one way for community members to access additional cash resources, above and beyond employment or compensation. The result can be a struggle among community individuals or groups for access to contracts. This can involve violence, if the stakes are high enough and if there are not community-based structures for handling competition non-violently. This struggle can be particularly fierce when the influx of resources associated with a company's presence has caused cash to recently take predominance over traditional community hierarchies of, for example, wisdom and age.

**Low quality work done by local contractors can feed into conflict within the community. Companies are sometimes not careful about verifying the qualifications or integrity of local contractors, as they perceive it is “good enough” that they are hiring local contractors at all. This can feed into conflict, in particular when the local contractor is developing a community project, for example, a school or hospital. In some cases where the work quality was substandard, local communities have attacked the local contractor, as well as blaming the company for not delivering and for corrupt practices.**

**Contracting companies have suspect definitions of “local” employees.** The term “local” means different things to different people. For example, is it the geographical area? A company with a local work force? A locally registered company? Sometimes

companies are so fixated on fulfilling their ‘local’ obligations that the underlying objective of providing local economic benefits are lost, leading to more resentment among local communities. For example, this can be the case if a company is locally registered but employs non-locals.

## **OPTIONS AND ALTERNATIVES**

**1. Engage in teambuilding between the construction and the operating crew.** One company successfully organized a one-week team-building exercise between the construction crew and the operating crew prior to construction. The effort made that the construction crew was much more receptive to the advice and suggestions of the operating crew and who had a long-term commitment to the community.

**2. Make employment and training of “locals” explicit for “outsiders.”** Many companies require outside contractors to hire a percentage of their staff from local communities and to provide them with training. For example, the contracting policy of one company explicitly states that outside companies that are bidding for a contract a) need to include a training budget in their bid; b) are required to train any local staff they employ; and c) will be evaluated based on the training post. Other companies have agreed with outside suppliers to provide apprenticeships for “local” youth (subsidized by the company) to build future capacity.

**3. Reinforce interdependent business opportunities.** One focus of the economic development programs could be on encouraging linked, cross-community enterprises that depend on each other for success. An example is to reward contracts to joint-ventures or other initiatives that pool resources between –initially- competing groups or individuals. In one country, the specifications for obtaining a local transport contract were too costly for local entrepreneurs to meet. Instead, they proposed to sell their old individually-owned buses and pool their resources to buy a new bus and to bid for the contract; former competitors became partners.

**4. Combat perceptions of corruption through increased transparency.** Communities often are not aware of the decision-making process through which contracts are awarded. This lack of transparency generates allegations of corruption and deal-making, which can undermine all the good efforts of the company to establish trust. Community members provided several examples of how the company could regain their trust through transparency measures. These included:

- Be explicit about the definition of “local”.
- Be transparent about the selection process for awarding contracts.
- Make contract details and obligations available to the community that is to benefit from a contract.
- Make the detailed budgets for each project available to the community.
- Insist that external auditors visit the field to verify that a contract is implemented according to specifications.

- Some companies have considered, instead of a tender system, to work on a “costs plus margin” base to ensure that local business would not lose on the contract.

This does not imply that every local stakeholder has a right to know everything. Rather the point should be to ensure that communities feel that companies have made genuine attempts to put an end to internal corruption and to inform communities as much as possible about decisions that affect them.

**5. Be pro-active in creating local economic benefits.** Especially in areas with a low local economic infrastructure, some companies have been successful in creating or increasing local economic benefits, and increasing the number of qualified local vendors. Elements of this approach include:

- Provide targeted assistance to help businesses get to the required standard.** Such an approach means that there are no quotas or targets for local involvement. All contracts for business are based on merit. Providing the training and expertise to local suppliers to meet the company’s quality standards allows the company to source more supplies locally thereby generating job opportunities and increasing local income.
- Ensure local ownership** of the strategy for securing local economic benefits, for example through public hearings.
- Divide large contracts up into smaller pieces.** Provide scope of work for local contractors into lots suited to the size and capacity of the local business. For example, for mine preparation, contractors were able to bid for all the steps—for example, land clearance, drainage, etc.—or for only specific components.
- Adjust the scheduling of work so that businesses have a flow of work across the year** and do not have to lay people off in between construction phases, which may feed into grievances.
- Provide seed capital for business development opportunities.** Communities generally recognize that the company cannot provide jobs to all who want them. Many people have expressed an interest in developing their own businesses. This can be as simple as the company providing a loan to the local sandwich bar to buy a fridge and keep produce fresh to providing a loan to the local taxi driver for an up-to-standards car that can be hired by the company.
- Consider seed-capital in kind.** For example, companies consider allowing local business to use their empty cargo space from the inlands to the capital to ‘export’ produce to the capital.